

No. 12795

United States
Court of Appeals
for the Ninth Circuit.

ALI RASCHID, Named in the Indictment as
Rudolph LaMarr,

Appellant.

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Appeal from the United States District Court,
Western District of Washington,
Northern Division.

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INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

	PAGE
Appeal:	
Appellant's Statement of Points on.....	126
Bond of Defendant on.....	19
Designation of Contents of Record on.....	130
Notice of	16
Order Revoking Bond on.....	123
Appellant's Statement of Points on Appeal....	126
Bond of Defendant on Appeal.....	19
Certificate of Clerk.....	120
Designation of Contents of Record on Appeal..	130
Government's Requested Instructions.....	4
Indictment	3
Journal Entry, Deny Motion for Leave to De- part Jurisdiction	22
Judgment, Sentence and Commitment.....	14
Letter, Clerk, Cook County Court, Chicago, Re True Name of Defendant.....	12
Motion for Acquittal and in the Alternative for a New Trial.....	11

INDEX	PAGE
Motion of Defendant for Leave to Depart Jurisdiction for 90 Days.....	21
Names and Addresses of Counsel.....	1
Notice of Appeal.....	16
Notice of Appearance.....	18
Order Revoking Bond on Appeal and Remanding Defendant to Marshal's Custody and Granting Defendant's Motion.....	123
Recognizance of Defendant on Appeal.....	19
Transcript of Proceedings at Trial.....	23
Verdict	10
Withdrawal of Counsel for Defendant and Appellant	18
Witnesses, Plaintiff's:	
Allen, Beverly June	
—direct	51, 58
—cross	57, 59
—redirect	67
Daugherty, George D.	
—direct	74
—cross	75
Ferguson, Mrs. Rose	
—direct	71
—cross	72

INDEX

PAGE

Witnesses, Plaintiff's—(Continued):

McMath, Enola

—direct 29

—cross 38

Ruthman, Mrs. Carrie L.

—direct 24

—cross 27, 69

—redirect 70

—recross 71

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For Appellee.

United States District Court, Western District of
Washington, Northern Division

No. 48,115

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUDOLPH LaMARR,

Defendant.

INDICTMENT

The Grand Jury charges:

Count I.

That on or about May 15, 1950, the defendant, Rudolph LaMarr, did knowingly and unlawfully persuade, induce and entice Enola McMath, a female, who had not attained her eighteenth birthday, to go from Seattle, in the Northern Division of the Western District of Washington, by common carrier, to Portland, in the State of Oregon, with the intent on the part of the defendant Rudolph La Marr that she, the said Enola McMath, be induced to engage in prostitution and debauchery.

All in violation of Sec. 2423, Title 18, U.S.C.

Count II.

That on or about May 15, 1950, the defendant, Rudolph LaMarr, did knowingly and unlawfully persuade, induce and entice Beverly June Allen, a female person, to go from Seattle, in the Northern Division of the Western District of Washington,

to Portland, in the State of Oregon, with the intent on the part of said defendant Rudolph LaMarr that the said Beverly June Allen should engage in the practice of prostitution and debauchery, and the said defendant Rudolph LaMarr did thereby knowingly cause said Beverly June Allen to go and to be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon.

All in violation of Sec. 2422, Title 18, U.S.C.

A True Bill.

/s/ DAVID E. LOCKWOOD,
Foreman.

/s/ J. CHARLES DENNIS,
United States Attorney.

/s/ JOHN F. DORE,
Assistant United States
Attorney.

[Endorsed]: Filed July 13, 1950.

[Title of District Court and Cause.]

GOVERNMENT'S REQUESTED
INSTRUCTIONS

Comes now the United States of America, plaintiff herein, and respectfully requests this Honorable Court to give the following instructions in the above-entitled cause:

Instruction No. 1

The defendant, Rudolph LaMarr, is charged in two counts in the Indictment with violating what is commonly known as the White Slave Traffic Act. In the first count, that on or about May 15, 1950, the said defendant did knowingly persuade, induce and entice a female, Enola McMath, who had not attained her eighteenth birthday, to go from Seattle, Washington, to Portland, Oregon, with the intent and purpose of the said Rudolph LaMarr that said Enola McMath be induced to engage in the practice of prostitution and debauchery, and did knowingly cause the said Enola McMath to go and be carried as a passenger upon the route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon.

In the second count, the defendant Rudolph La Marr is similarly charged with respect to one Beverly June Allen, at the same time and on the same day.

To these charges the defendant has entered a plea of not guilty, which places upon the prosecution the burden of proving the truth of every material allegation of the Indictment beyond a reasonable doubt.

If you have reasonable doubt under the evidence of the truth of any material allegation of the Indictment, it is your duty to acquit the defendant. However, if you have no reasonable doubt under the evidence as to the truth of any material allegation, then it is your duty to convict the defendant.

Instruction No. 2

The statute under which the defendant is charged in Count I of the Indictment reads:

“Whoever knowingly persuades, induces, entices, or coerces any woman or girl who has not attained her eighteenth birthday, to go from one place to another by common carrier in interstate commerce * * * with intent that she be induced or coerced to engage in prostitution, debauchery or other immoral practice * * *” (shall be punished as therein provided).

Sec. 2423, Title 18, U.S.C.

Instruction No. 3

The statute under which the defendant is charged in Count II of the Indictment reads as follows:

“Whoever knowingly persuades, induces, entices, or coerces any woman or girl to go from one place to another in interstate commerce * * * for the purpose of prostitution or debauchery, or for any other immoral purpose, or with intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or other immoral practice, whether with or without her consent, and thereby knowingly causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce * * *” shall be punished as therein provided.

Sec. 2422, Title 18, U.S.C.

Instruction No. 4

The Act of Congress forbids any person to knowingly persuade and induce any woman or girl to go from one place to another in interstate commerce for the purpose of prostitution or debauchery, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, whether with or without their consent.

The term "interstate commerce" as used in the Indictment herein includes the transportation from the State of Washington to the State of Oregon.

If you find from the evidence, beyond a reasonable doubt, that the defendant, Rudolph LaMarr, did knowingly persuade and induce Enola McMath, named in Count I, to go from Seattle, Washington, to Portland, Oregon, with the intent and purpose of said Rudolph LaMarr that said Enola McMath, who at that time had not attained her eighteenth birthday, should engage in the practice of prostitution or debauchery whether with or without her consent, and did thereby knowingly cause the said Enola McMath to go and be carried as a passenger upon the route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon, then it is your duty to convict the said defendant.

If you find from the evidence, beyond a reasonable doubt, that the defendant, Rudolph LaMarr, did knowingly persuade and induce Beverly June Allen, named in Count II, to go from Seattle, Washington, to Portland, Oregon, with the intent

and purpose of said Rudolph LaMarr that said Beverly June Allen should engage in the practice of prostitution, debauchery or other immoral practice, and did thereby knowingly cause the said Beverly June Allen to go and be carried as a passenger upon the route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon, then it is your duty to convict the said defendant.

Instruction No. 5

The term “debauchery” means “vicious indulgence in sensual pleasures,” or “excessive indulgence in sensual pleasures of any kind”; “gluttony”; “intemperance”; “sexual immorality”; “unlawful indulgence of lust.”

3 Oxford English Dictionary.

3 Century Dict. Rev. Ed. 1477.

Caminetti v. United States

220F 545 (9 Cir.) 242 U. S. 470

Cleveland v. United States

(1946) 329 U. S. 15 (17)

Instruction No. 6

In order for you to convict the defendant of the charge contained in Count I of the Indictment, it is not necessary for the Government to prove nor for you to find that the defendant accomplished his purpose of having Enola McMath engage in prostitution or debauchery or other immoral acts at the end of the interstate journey, if you should find beyond a reasonable doubt, from all of the evidence, that that was the intent of the defendant prior to

the commencement of the interstate journey. It is sufficient if you find from the evidence, beyond a reasonable doubt, that defendant persuaded, induced, or coerced Enola McMath to go from Seattle, Washington, to Portland, Oregon, by common carrier for any one or more of those purposes, and it is your duty to convict the defendant.

Quallo v. United States

149 F(2) 891

Cleveland v. United States

(1946) 329 U. S. 15 (17)

It is requested that the Court give instructions on the following subjects:

7. Presumption of Innocence
8. Intent
9. Evidence
10. Reasonable Doubt
11. Credibility
12. Statements by Counsel
13. Conclusion

[Endorsed]: Filed October 17, 1950.

District Court of the United States, Western
District of Washington, Northern Division

No. 48115

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALI RASCHID, Named in the Indictment as
RUDOLPH LaMARR,

Defendant.

VERDICT

We, the Jury in the Above-Entitled Cause, Find the defendant Ali Raschid, named in the Indictment as Rudolph LaMarr, is guilty as charged in Count I of the Indictment; and further find the defendant Ali Raschid, named in the Indictment as Rudolph LaMarr, is guilty as charged in Count II of the Indictment.

/s/ CLARENCE G. BLEWETT,
Foreman.

[Endorsed]: Filed October 18, 1950.

[Title of District Court and Cause.]

**MOTION FOR ACQUITTAL AND IN THE
ALTERNATIVE FOR A NEW TRIAL**

Comes now the defendant and moves the Court for an Order of Acquittal as to each Count of the Indictment, upon the following grounds:

1. The evidence was insufficient to justify a verdict of guilt upon either Count of the Indictment.

2. The evidence was insufficient to justify the submission of either Count of the Indictment to the Jury.

3. The Government's evidence was insufficient to establish a *prima facie* case of guilt under either Count of the Indictment.

4. The Government's evidence established the innocence of the defendant as to each Count of the Indictment.

In the alternative, and in the event that the foregoing Motion for Acquittal be denied, the defendant moves the Court for an Order granting him a New Trial, upon the following grounds:

1. The Court erred in denying defendant's motion for acquittal made at the conclusion of the Government's evidence.

2. The verdict is contrary to the weight of the evidence.

3. The verdict is not supported by substantial evidence.

4. The defendant was substantially prejudiced and deprived of a fair trial by reason of the fact that the attorney for the Government, in his argument to the jury, called to the jury's attention that the defendant had not taken the stand in his own behalf by stating that certain evidence introduced by the Government had not been denied by the said defendant.

/s/ WILL G. BEARDSLEE,
Attorney for Defendant.

Receipt of copy acknowledged.

[Endorsed]: Filed October 20, 1950.

United States District Court for the Western Dis-
trict of Washington, Office of Probation Officer

October 20, 1950

Via Airmail
Clerk of Court
Cook County,
Chicago, Illinois

Re: Rudolph LaMarr, true name Oscar Syl-
vester Williams or Ali Raschid
Case 49-S-9626

Dear Sir:

The above-named man claims that he had his name changed from Oscar Sylvester Williams to Ali Raschid sometime in July of 1949.

We would appreciate it if you would verify this

by making a notation on the lower part of this letter.

Enclosed is a self-addressed stamped envelope.

Thanking you for your cooperation in this matter, we are

Yours very truly,

/s/ ROBERT A. STEWART,
Chief U. S. Probation Officer.

Decree entered July 5, 1949, Judge Lupe.

Is above correct? Yes.

Dated and in which Court? Superior Court, Cook County, Illinois.

By /s/ S. DORN,
Deputy.

Received, Clerk of Court, Oct. 23, 1950.

Received, U. S. Probation Office, Oct. 30, 1950.

[Endorsed]: Filed Oct. 30, 1950.

United States District Court, Western District of
Washington, Northern Division

No. 48115

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALI RASCHID, Named in Indictment as
RUDOLPH LaMARR,

Defendant.

JUDGMENT, SENTENCE
AND COMMITMENT

On this 30th day of October, 1950, the attorney for the Government, and the defendant, Ali Raschid, appearing in person and being represented by Will G. Beardslee and Lynn J. Gemmill, his attorneys, the Court finds the following:

That prior to the entry of his plea, a copy of the Indictment was given the defendant and the defendant entered a plea of not guilty and a trial was held, resulting in a verdict of guilty as to Counts I and II thereof; that the Probation Officer of this district has made a presentence investigation and report to the Court; now, therefore,

It Is Adjudged that the defendant, Ali Raschid, has been convicted by jury verdict and is guilty of the offense of violation of Sections 2422 and 2423, Title 18, U.S.C., as charged in Counts I and II of the Indictment, and the Court having asked the defendant whether he has anything to say why

judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged in Counts I and II of the indictment, and is convicted.

It Is Adjudged and Ordered that the defendant be committed to the custody of the Attorney General of the United States for confinement in the United States Penitentiary, McNeil Island, Washington, or such other like institution as the Attorney General of the United States or his authorized representative may by law designate for the period of Five (5) Years on each of Counts I and II of the indictment, provided, however, that the execution of the service of sentence on Count II shall run concurrently with, and not consecutively to, the service of the sentence imposed on Count I of the indictment, and further, that defendant pay a fine to the United States of America in the sum of One Thousand (\$1000.00) Dollars, with commitment until paid, on Count I of the indictment.

It Is Ordered that the Clerk of this Court deliver a certified copy of this Judgment, Sentence and Commitment to the United States Marshal or other qualified officer, and that said copy serve as the commitment of the defendant.

Done in Open Court this 30th day of October, 1950.

/s/ JOHN C. BOWEN,
U. S. District Judge.

Presented by:

/s/ JOHN E. BELCHER,
Asst. U. S. Attorney.

Violation of Sections 2423 and 2422, Title 18, U.S.C.
(White Slave Traffic Act)

[Endorsed]: Filed October 30, 1950.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and Address of Appellant is: Rudolph La-Marr, Seattle, Wash.

Name and Address of Appellant's Attorney is: Will G. Beardslee, 1201 Northern Life Tower, Seattle 1, Washington.

The offenses with which Appellant was charged and convicted are:

Count I, knowingly and unlawfully persuaded, induced and enticed one Enola McMath, a female, under the age of eighteen years to go from Seattle, Washington, to Portland, Oregon, with the intent that she be induced to engage in prostitution and debauchery, all in violation of Section 2423, Title 18, U.S.C.

Count II, knowingly and unlawfully persuaded, induced and enticed Beverly June Allen, a female person, to go from Seattle, Washington, to Portland, Oregon, with the intent that she should engage in the practice of prostitution and debauchery and knowingly cause the said Beverly June Allen to go

and to be transported as a passenger upon a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon, all in violation of Section 2422, Title 18, U.S.C.

Order denying Appellant's Motion for Acquittal and in the alternative for a New Trial was signed and entered October 30, 1950.

Judgment of Conviction and sentence was signed and entered the 30th day of October, 1950, sentencing the Appellant to serve five years upon each Count, sentences to run concurrently, and to pay a fine of \$1000 upon Count I.

The Appellant is confined to the Federal jail at Seattle, Washington, pending the posting of Bail Bond on appeal in the sum of \$10,000.

I, the above-named Appellant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated this 2nd day of November, 1950.

/s/ WILL G. BEARDSLEE,
Attorney for Appellant.

[Endorsed]: Filed November 3, 1950.

[Title of District Court and Cause.]

WITHDRAWAL OF COUNSEL FOR
DEFENDANT AND APPELLANT

The undersigned hereby withdraws as attorney
for the defendant and appellant herein.

Dated this 3rd day of November, 1950.

/s/ WILL G. BEARDSLEE,
Attorney for Defendant and
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed November 4, 1950.

[Title of District Court and Cause.]

NOTICE OF APPEARANCE

To: J. Charles Dennis, United States Attorney, and
to John E. Belcher, Assistant United States
Attorney:

You and Each of You Please Take Notice that
the undersigned, J. Kalina, hereby enters his ap-
pearance as attorney for the defendant, Rudolph
LaMarr in the above-entitled action.

/s/ J. KALINA,
Attorney for Defendant.

Receipt of copy acknowledged.

[Endorsed]: Filed November 4, 1950.

RECOGNIZANCE OF DEFENDANT
ON APPEAL

United States of America,
Western District of Washington,
Northern Division—ss.

Know All Men by These Presents: That we, Ali Raschid, named in the indictment as Rudolph Lammarr, Principal, and the General Casualty Company of America, a corporation, as Surety, are held and firmly bound unto the United States of America in the full and just sum of Ten Thousand and No/100 (\$10,000.00) Dollars, to be paid to the United States of America to which payment well and truly to be paid, we bind ourselves and our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 3rd day of November, in the year of our Lord One Thousand Nine Hundred and Fifty.

Whereas, Lately at Seattle, Washington in the District Court of the United States for the Western District of Washington, in a suit pending in said court, between the United States of America, Plaintiff, and Ali Raschid, Defendant, a judgment and sentence was rendered against said defendant, Ali Raschid, and the said Ali Raschid has appealed to the United States Circuit of Appeals for the Ninth Circuit to reverse the judgment and sentence in the aforesaid suit.

Now, the condition of the above obligation is such that if the said Ali Raschid named in the indict-

ment as Rudolph LaMarr shall appear either in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause, in said Court, and shall prosecute his said appeal, and abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in the execution of the judgment and sentence appealed from, as said Court may direct, if the judgment and sentence against him shall be affirmed, or the appeal is dismissed; and if he shall appear for trial in the District Court of the United States, for the Western District of Washington, such day or days as may be appointed for retrial by said District Court and abide by and obey all orders made by said Court, provided the judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise to remain in full force, virtue and effect.

/s/ ALI RASCHID,

GENERAL CASUALTY COM-
PANY OF AMERICA,

[Seal] By /s/ ANTHONY PANELLA,
Attorney-in-Fact.

Not good unless countersigned by F. Hugh Shaw.

/s/ F. HUGH SHAW.

Bond approved as to form:

/s/ JOHN E. BELCHER,
Asst. U. S. District Attorney.

Bond Approved this 4th day of November, 1950.

/s/ JOHN C. BOWEN,
United States District Judge.

[Endorsed]: Filed November 4, 1950.

[Title of District Court and Cause.]

MOTION

Comes now the defendant, Ali Raschid, and moves the Honorable Court for an order granting leave to the defendant to leave the Western District of Washington for a period of ninety days.

This motion is based upon the affidavit hereunto annexed.

/s/ J. KALINA,
Attorney for Defendant and
Appellant.

Affidavit of Ali Raschid

United States of America,
State of Washington,
County of King—ss.

Ali Raschid being first duly sworn upon his oath, deposes and says: That he is the defendant and appellant in the above-entitled action; that he is en-

gaged in the business of selling jewelry; that he just received a shipment of jewelry from Los Angeles, and his business requires him to travel beyond the Western District of Washington in order to sell same.

Affiant further says that he desires to communicate personally with an attorney from the National Advancement Association for Colored People, either in the City of San Francisco, or in the City of Chicago, and be associated with J. Kalina, his attorney, in perfecting an appeal to the Circuit Court of Appeals for the Ninth Circuit.

/s/ ALI RASCHID.

Subscribed and sworn to before me this 6th day of November, 1950.

[Seal] /s/ JACOB KALINA,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Endorsed]: Filed November 9, 1950.

[Title of Court and Cause.]

MOTION TO LEAVE JURISDICTION
DENIED

Now on this 9th day of November, 1950, Jacob Kalina appears for the Defendant Ali Raschid, named in the indictment as Robert LaMarr.

This cause comes on before the Court for hearing on defendant's motion to leave the jurisdiction of the Court. Motion is argued by Mr. Kalina, and denied, and it is so ordered. The defendant is present.

In the District Court of the United States for the
Western District of Washington, Northern
Division

No. 48115

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALI RASCHID, Named in the Indictment as
RUDOLPH LaMARR,

Defendant.

Before: The Honorable John C. Bowen,
District Judge.

TRANSCRIPT OF PROCEEDINGS
AT TRIAL

October 17, 1950—10:00 o'Clock A.M.

Appearances:

Assistant United States Attorney John E.
Belcher appearing for plaintiff.

Will G. Beardslee and Lynn J. Gemmill appear-
ing for defendant.

Whereupon, a jury having been duly impanelled
and sworn and opening statement made by plaintiff,
the following proceedings were had and done,
to wit:

The Court: The plaintiff will now call its first
witness.

Mr. Belcher: If Your Honor please, if I may be permitted to call one witness out of order?

The Court: Is there any objection?

Mr. Beardslee: No, Your Honor, no objection. [2*]

MRS. CARRIE L. RUTHMAN

called as a witness by and on behalf of plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Belcher:

Q. Will you state your name, please?

A. Mrs. Carrie L. Ruthman.

Q. R-u-t-h-m-a-n? A. That is right.

Q. Where do you live?

A. 1033 Southwest Yamhill Street, Portland.

Q. Portland, Oregon? A. Yes, sir.

Q. What is your business?

A. I have been in the hotel business for many years.

Q. Were you in the hotel business in the month of May, 1950?

A. I was in the Carroll Hotel at that time, yes, sir.

Q. Did you bring with you at my request the records of registrations at your hotel concerning two girls? A. I did.

Q. Have you them with you, please?

* Page numbering appearing at foot of page of original Reporter's Transcript of Record.

(Testimony of Mrs. Carrie L. Ruthman.)

A. Yes, sir. [3]

(Registration card marked Plaintiff's Exhibit 1 for identification.)

Q. You are now being handed what has been marked for identification Plaintiff's Exhibit 1. What is that?

A. That is the registration card of two young ladies. On registered as Clair Steven and the other as Germain Pica.

Q. What was the date of the registration?

A. June 25th.

Q. June 25th?

A. At six o'clock in the evening, yes, sir, 1950.

Q. What year? A. 1950.

Q. Do you see those two persons in the courtroom? A. Yes, I do.

Q. Do you recognize the two girls standing up as being those——

Mr. Beardslee: If Your Honor please, that is objected to as immaterial. If that is the date, we were not warned or advised of it in the indictment.

The Court: Will you state the materiality?

Mr. Belcher: Yes. I have to connect it up, if Your Honor please, with the testimony of the girls as to what the defendant told them to do. That is why I called the lady out of order. [4]

The Court: Do you promise to make such a connecting up?

Mr. Belcher: I do, Your Honor.

The Court: The objection is overruled. It is subject to the condition that it be connected up.

(Testimony of Mrs. Carrie L. Ruthman.)

Mr. Beardslee: May I suggest this, the information alleges that on or about May 15, 1950, they were transported, and counsel in his opening statement said he told them what hotel to go to and register. This witness testified, I believe, that they didn't come to Portland and register there until June 15, and the witness was refreshing her recollection from a registration card that counsel now seek to have introduced in evidence. Am I correct in that?

The Witness: It is May 15th.

Mr. Belcher: The charge in the information, if Your Honor please, is that this occurred on or about May 15th and I apprehend Your Honor will instruct the jury to the effect that the date is immaterial as long as it occurred within three years from the date of the return of the indictment.

The Court: Upon the promise stated by Mr. Belcher of connecting this up with the events charged in the indictment, the objection is overruled. I will ask Mr. Belcher and Mr. Beardslee to listen to the [5] witness' statement.

The Witness: It is May 25th.

The Court: What is the answer now of the witness? I do not know what has been heard. I wanted counsel to hear what the jury may have heard. That is what I had in mind. You may ask questions, because I do not understand what the witness intended to say.

(Testimony of Mrs. Carrie L. Ruthman.)

Q. Exhibit 1 for identification is your regular method of registering guests?

The Court: I think you should ask her.

Q. What is it, Exhibit 1?

A. Exhibit 1 is a registration card that we use continuously at our hotel desk.

Q. What was the first date that these two persons were registered at the Carroll Hotel, which is run by you?

A. On May 25, 1950, at six p.m.

Mr. Belcher: I now offer Exhibit 1.

Mr. Beardslee: I do not believe it is competent at this time. It may be when counsel picks it up later. He may be able to connect it.

Mr. Belcher: I will withdraw the offer at this time. She has identified it.

The Court: Do you wish to ask here any other questions?

Mr. Belcher: Nothing further, Your Honor. [6]

The Court: You may cross-examine.

Cross-Examination

By Mr. Beardslee:

Q. You are, Mrs. Ruthman, testifying from the exhibit about dates, rather than from your own recollection?

A. Well, I remember very well of those ladies being at my hotel on account of the unpleasant circumstances and also——

The Court: Do not volunteer any reasons why. Just answer the question.

(Testimony of Mrs. Carrie L. Ruthman.)

The Witness: I am testifying according to my card.

Q. In other words, you have had so many guests through the hotel that you haven't an independent recollection of the dates that they registered there? That is approximately correct, isn't it?

A. From memory, I couldn't swear to it. I am going by the card.

Q. When you first testified June 15th, you had merely misread your card?

A. That's right.

Q. Is that card signed by the girls or is that merely your hotel record that your clerk or someone has made out? [7]

A. Mrs. Elliott signed. She witnessed the card.

Q. One of the girls did?

A. My evening clerk.

Q. Did the girls sign it? Did the girls sign the card?

A. Each of them signed the card, yes.

Q. Is that their signature on the card?

A. Yes.

Mr. Beardslee: I have no further questions.

The Court: You may step down.

Mr. Belcher: I would ask, unless there is objection on the part of counsel or the Court, that the witness may be excused.

The Court: I think you had better leave the witness here, in view of the fact that the exhibit is not in evidence. Some other question may arise later in

connection with it. The Court might wish to ask a question.

ENOLA McMATH

called as a witness by and on behalf of plaintiff, having been first duly sworn, was examined and testified as follows: [8]

Direct Examination

By Mr. Belcher:

Q. Will you state your name, please?

A. Enola Rae McMath.

Q. How old were you in the month of May, 1950?

A. Sixteen.

Q. Had you been previously married?

A. Yes, I was married when I was fourteen.

Q. Was that with the consent of your parents?

A. Yes, it was.

Q. Are you the mother of a child?

A. Yes, I have a little girl.

Q. How old?

A. Nineteen months.

Q. I will ask you if you are acquainted with the defendant, Rudolph LaMarr, who claims his name to be Ali Raschid?

A. Yes, I am.

Q. When and where did you first meet him?

A. The first time I met him was at the Sessions Club in Seattle. That was the first time that I had seen him, and I was introduced to him by my sister, Beverly.

Q. Where is the Sessions Club?

A. It is on Fourteenth and Main.

Q. Fourteenth and Main in the city of Seattle?

(Testimony of Enola McMath.)

A. Yes.

Q. What kind of a club is it?

A. It is a colored club.

Q. Do you know the date that you first met the defendant?

A. I don't remember the exact date.

Q. Was it during 1950? A. Yes, it was.

Q. Do you know whether it was in April or May of that year?

A. I wouldn't swear to it, but I believe it was in May.

Q. Were you introduced to the defendant by somebody?

A. I was introduced to him by my sister, Beverly.

Q. What name was given to you as the name of the defendant?

A. Well, just Ali was the name I was introduced to him.

Q. Did you know him by any other name?

A. Not at that time.

Q. At any time afterwards?

A. Yes, later I found out that he went by the name Rudy LaMarr.

Q. On the occasion that you met the defendant at the Sessions Club, did he make any kind of a proposition to you? [10] A. No, he did not.

Q. Did you meet him at some subsequent date?

A. Several. Well, it was weeks or so later that my sister and I were up at the Elks Club and it was then that——

(Testimony of Enola McMath.)

Q. You say the Elks Club? Is that the Elks Club down here on——

A. Jackson.

Q. It is the colored Elks Club? A. Yes.

The Court: Ask the witness, Mr. Belcher.

The Witness: It was the colored Elks Club on Jackson street.

Q. What was the occasion of your going down there?

A. Well, he had called us on the phone and said he wanted to talk to us and so we both went down, and it was then that he brought the subject up of going to Portland. I was working at the time, I was working, that was it, and I was planning on changing my job and he had said there were more opportunities for work down there.

Q. Where at this time were you working, if at all? A. At the Park Cafe on Third Avenue.

Q. What was your occupation?

A. Waitress.

Q. On the occasion that he wanted you to go to [11] Portland, did he say for what purpose?

A. He didn't mention any purpose, just that he thought we would like it down there.

Q. Was your sister present at the time of this conversation? A. Yes, she was.

Q. Then what followed?

A. Well, then after we had decided to go, he told us that we could meet him the next day and that he would give us the money for the train fare, for the tickets.

(Testimony of Enola McMath.)

Q. Did he give you money for train fare?

A. Yes.

Q. Where? A. It was in the train depot.

Q. What did you do with that money?

A. I took the money and bought Beverly and myself two tickets round trip, and then when I arrived in Portland used the other part of the money for our hotel.

Q. What, if anything, was said to you by the defendant at the station or at any other time as to where you should go or what you should do at Portland?

A. Before we left, he had told us that after we had registered at the hotel, to call him.

Q. What hotel? Did he suggest the name of the hotel?

A. He had given us, I believe it was two hotels to [12] choose from. The Carroll was one and I don't remember the other, and we chose the Carroll Hotel.

Q. After you arrived, did you register at the hotel? A. Yes, we registered at the Carroll.

Q. You are now being handed what has been marked for identification Plaintiff's Exhibit 1. Did you ever see that before?

A. Yes, that is my signature.

Q. What is your signature?

A. Clair Steven.

Q. Why did you use an assumed name?

A. Well, the reason for it—I don't really have

(Testimony of Enola McMath.)

any. We just decided it would be better if we used fictitious names.

Q. You identify that signature on that card as having been made by you? A. Yes.

Q. Does the card itself indicate to you the date on which you registered? A. Yes.

Q. What was it?

A. It was May 15th, or 8th, I believe it was May 8th.

Q. Was the other signature that appears upon that card made in your presence?

A. Yes. [13]

Q. By whom? A. By my sister.

Q. What name did she register under?

A. Germain Pica.

Mr. Belcher: I now offer Exhibit 1.

Mr. Beardslee: I think it may be admissible this time, Your Honor, but I have some serious doubt about its materiality. It might be prejudicial.

The Court: Plaintiff's Exhibit 1 is now admitted, the objections thereto being overruled.

(Plaintiff's Exhibit 1 received in evidence.)

Q. After you had registered at the Carroll Hotel, did the defendant contact you?

A. No, we contacted him.

Q. You contacted him? A. Yes.

Q. Where did you contact him?

A. Well, I don't remember the number. It was at his home in Portland, I gathered.

(Testimony of Enola McMath.)

Q. By telephone, was it? A. Yes.

Q. Did the defendant thereafter telephone you at your hotel? [14]

A. Not the same day, but he did call.

Mr. Beardslee: I might suggest, if Your Honor please, I think I have been quite lenient in not objecting to leading questions, but these have been constantly leading.

The Court: The objection is well taken. Avoid leading.

Q. What happened after the defendant contacted you and you contacted him by telephone?

A. The day that we arrived in Portland, after I contacted him, he gave us this name of this club where we could meet him, and that was McLeod's, I think.

The Court: State the name again.

The Witness: I believe it was McLeod's Club, I am not sure how to pronounce it. We met him there and I don't remember if it was that evening or the next evening when we saw him again, but we met him there and talked to him and told him where we were staying.

Q. Did you meet him at a subsequent date?

A. Yes, it was that evening or the next day, I don't remember which it was, that we did see him.

Q. Where did you meet him?

A. At this club, McLeod's.

Q. What did you do at the club? [15]

A. We didn't do anything. We sat there and talked with him and that was about all.

(Testimony of Enola McMath.)

Q. Did you meet him after that again?

A. Yes, at the same place, and that time, the second time——

Mr. Beardslee: I believe, if Your Honor please, the question has been answered.

Q. Did you have any conversation with him at that time?

Mr. Beardslee: Counsel's question has been answered.

The Court: Read the question.

(Last question read by reporter.)

The Court: State yes or no.

The Witness: Yes.

Q. Where? A. At the McLeod's Club.

Q. Did you have a conversation with him at that time? A. Yes.

Q. What was the gist of that conversation?

A. Well, as much as I can remember, we were talking about working and he asked us if we had looked for any jobs. We had looked for a couple and something had come up where they had been taken, and we hadn't found any, and he asked [16] us if we had enough money and at that time we had enough and——

Q. Then you did meet him at a subsequent time to that?

A. Yes. One afternoon by myself I went down to this hotel where he had this room and that was before I came back to Seattle the second time.

Q. Where did you meet him?

(Testimony of Enola McMath.)

A. At the Rowland Hotel.

Q. What, if anything, occurred at the Rowland Hotel between you and the defendant?

Mr. Beardslee: Objected to as immaterial, if Your Honor please, not properly connected up with the issues of this case.

The Court: Overruled.

The Witness: The thing that occurred, we had sexual intercourse.

Q. At the Rowland Hotel? A. Yes.

Q. What were the circumstances under which you had sexual relations?

Mr. Beardslee: If Your Honor please, I fail to see any materiality of that. It might elicit prejudicial answers that I cannot possibly foresee. I do not know what the materiality the nature of the intercourse might be.

The Court: Any response to the objection?

Mr. Belcher: Yes, Your Honor. It goes right to the gist of this crime.

The Court: I do not know what it is that you seek to show and if you feel it is not appropriate to mention what it is, I will have to discharge the jury until I find out what it is. The jury will temporarily retire to the jury room.

(Jury retires.)

Mr. Belcher: I want to prove by the witness, if Your Honor please, that it was because of intimidations and threats that she gave up her body to this defendant on that occasion, and that is de-

(Testimony of Enola McMath.)

bauchery. That is what he was charged with, with debauching this girl. That is the gist of the charge.

Mr. Beardslee: Then I am sorry, Your Honor, but I did not understand counsel's question.

The Court: Read the question.

(Last question read by reporter.)

The Court: Is there anything else to be said before calling in the jury?

Mr. Belcher: Nothing further.

Mr. Beardslee: No, Your Honor.

The Court: Bring in the jury. [18]

(Jury returns.)

The Court: All of the jurors have returned to their places as before. Read the question.

(Last question read by reporter.)

The Court: You may answer the question.

The Witness: Well, the reason for having sexual intercourse was before I had gone to Portland that I didn't mention was that——

The Court: Never mind that. Do not state that. That is not in this question. Read the question.

(Last question read by reporter.)

The Court: Answer that and nothing else.

The Witness: I was afraid.

Q. Why? Was it something that he said?

A. Well, he had said something before that.

Q. What was it he said?

(Testimony of Enola McMath.)

A. That is what I started to say, before the time that I had left Seattle, he had called the house and wanted to see me. He said that he would come down to work and pick me up, that he wanted to talk to me, and I said no, that I didn't want to see him. He said that if I had any plans to see anyone else or had made plans, just to forget about them, and if I didn't see him he would come in and make a scene and drag me out of there. He didn't mean bodily, I don't imagine, but I thought he would create a [19] scene, so I didn't go to work that day.

Q. Was there more than one occasion upon which you had sexual relations with the defendant in Portland?

A. Just this one occasion at the Rowland Hotel. What I meant was the first occasion was at the Rowland Hotel that afternoon, and the second occasion was one evening after we had been to the club, we went there. The next day was when I was leaving for Seattle and I had asked Rudy for some money. I had told him that I needed some money and he had given it to me.

Q. Did he give you some money? A. Yes.

Q. How much? A. \$70.00.

Mr. Belcher: You may inquire.

Cross-Examination

Q. I believe you said you first met the defendant at the Sessions Club? A. That is correct.

(Testimony of Enola McMath.)

Q. And were introduced at that time by your sister? A. Yes.

Q. Had you ever seen the defendant before you met him at the Sessions Club?

A. No, I had never seen him but he had called the [20] house and I had talked to him on the telephone.

Q. For how long a period of time before you met him at the Sessions Club had you talked to him over the telephone? Was it once or twice, a dozen times, how long a period of time?

A. I talked to him, I guess, two or three times over the telephone, and I guess it had been about three weeks or so.

Q. Three weeks? A. Yes.

Q. Did you go down to the Sessions Club to meet him or——

A. No. I didn't go down there with intentions of meeting him but he was there.

Q. You went down there to have a good time, did you not? A. Yes.

Q. And you had been going down to the Sessions Club for more than a year? A. No.

Q. How long?

A. Well, I had only been in the place half a dozen times.

Q. Half a dozen times during what period of time had you been in the Sessions Club? [21]

A. When I first started going there, I was always with someone or in a crowd.

(Testimony of Enola McMath.)

Q. Colored people or white people?

A. White people.

Q. This that you have described as a Negro night club is really a drinking club where they serve liquor and all? A. Yes.

Q. And you at the time you were going there were only seventeen years of age? A. Yes.

Q. Were you intoxicated at the time you met the defendant? A. No.

Q. Had you been on the other occasions when you were down there? A. No.

Q. What entertainment do they have at that club besides liquor? A. Dancing.

Q. Just explain what you mean when you say it was a colored night club?

A. It was owned and managed by colored people.

Q. And most of the patrons were colored people, were they? [22] A. The majority.

Q. You had been dancing with them before you met the defendant? A. No, I hadn't.

Q. During the probably six times as you recall it that you had been going down there before you met LaMarr, you had not been dancing with the patrons there? A. No, I hadn't.

Q. But yet that was your purpose for going down, was to dance, isn't that true?

A. I said before that the majority of times I had gone I was in a crowd or with someone.

Q. You mentioned being afraid of the defendant. Were you afraid here at Seattle?

(Testimony of Enola McMath.)

A. Yes, I was.

Q. Were you afraid he would harm you?

A. Yes.

Q. Where else besides the Negro Elks Club and the Sessions Club have you ever seen or met the defendant?

A. The Elks and the Sessions, that's all.

Q. Did the defendant ever threaten to harm you physically on either of the times you met him here in Seattle?

A. Only the time that he called on the phone.

Q. When you met him in the Negro Elks Club, there were [23] all colored people there, weren't there?

A. There was no one there except just a couple of people besides ourselves.

Q. They were colored?

A. Yes, they were the owners and the people that work there.

Q. But he didn't offer you any threats or bodily harm then, did he? A. No.

Q. When you met him in the Sessions Club, there were about two-thirds colored people?

A. Well it was about half and half.

Q. And he did not offer to do you any bodily harm there?

A. At one occasion, not that he mentioned bodily harm, but he—I wasn't with him at the time, I was with——

Q. I am speaking of this occasion when you first met him at the Sessions Club. He didn't threaten

(Testimony of Enola McMath.)

you, did he? A. Not the first occasion, no.

Q. Are you sure it was the Colored Elks Club where you met him on the second occasion?

A. The second time I saw him was at the Sessions.

Q. So the only time that he ever threatened you was over the telephone, is that correct?

A. No. One evening we were down at the Sessions and [24] I wasn't in his company, I was with some other people, and he wanted me to leave there with him. I said no, and he wanted me to meet him outside or something, but he didn't threaten me.

Q. Don't they have a police door man at the Sessions Club? A. Not that I can remember.

Q. They have a police matron in there?

A. I don't know.

Q. Don't they have police—haven't they had police in there every evening that you have been in there? A. Yes.

Q. Did you ever go to any of the police and tell them that he had threatened you with bodily harm?

A. At that time he hadn't threatened me with bodily harm.

Q. The second time that you saw him in the Sessions Club when you say he did threaten you, there were police there then, weren't there?

A. I don't remember.

Q. Do you recall ever having been in that club when they didn't have from one to two uniformed policemen in there? A. Yes.

(Testimony of Enola McMath.)

Q. Was that before or after you met LaMarr?

A. Before and after.

Q. And you weren't afraid of policemen, were you?

A. No.

Q. You knew that that is why we have policemen, to protect people from someone they are afraid of, don't you?

A. Well, I couldn't very well go up to a policeman and tell him I was afraid of the man if I didn't have any—like I said, he hadn't ever threatened me bodily, with bodily harm, down at the club when I saw him there.

Q. When and where did he first threaten you?

A. Over the telephone.

Q. And that was here in Seattle?

A. Yes.

Q. It was after that that you accepted this money to go to Portland?

A. Yes, that was after I had talked to him, I had seen him and talked to him in the Elks Club.

Q. Were you afraid of him at the time you accepted this money to go to Portland?

A. No.

Q. Did you leave the same day you accepted his money?

A. Yes.

Q. So the threats you say he had over the phone in Seattle didn't frighten you at all, is that true?

A. They frightened me at the time, yes.

Q. But then you got over your fear, is that right?

A. Well, I did for a short time, yes.

Q. You weren't afraid to accept money from him at the time you went to Portland, were you?

A. I wasn't afraid of him at that time, no.

(Testimony of Enola McMath.)

Q. But during the interim from the time you met him until the time you left to go to Portland, you had off and on or intermittently been frightened of him, is that correct? A. Yes.

Q. How long had you been in Portland when you went to him to borrow the—I believe you said \$75? A. \$70.

Q. How long had you been in Portland at that time? A. It was a week or so, I believe.

Q. And had you been in Portland continuously during that week or so? A. Yes.

Q. Didn't you tell him you wanted to borrow the money so you could come back to Seattle?

A. Well, I didn't actually ask him for the money. I told him I had some things I had to pay and he asked me how much I needed and I told him how much and he said I could have it.

Q. Isn't it true, youngster, that you told him that [27] you couldn't find work that you wanted in Portland and you wanted to come back to Seattle, and asked him for money so that you and your sister could return to Seattle? A. No.

Q. You told him you wanted to pay up your hotel bill or wherever you were living, didn't you?

A. No.

Q. Did you mention returning to Seattle at the time you borrowed that money?

A. That was the main reason for borrowing it. I told him I had to come back to pay my baby's board and a few other things I had to pay.

Q. Were you afraid of him after you registered

(Testimony of Enola McMath.)

in this hotel in Portland and called him up to let him know where you were staying? A. No.

Q. He never came down to that hotel to see you, did he? A. No.

Q. As far as you know, he was never in that hotel, was he? A. In which hotel?

Q. The hotel where you were staying, where you told him you were staying.

A. Not to my knowledge, no. [28]

Q. So in order to see him, you phoned and asked him where you could see him, didn't you?

A. He told us where we could meet him.

Q. Yes, but that is after you phoned him to tell him where you were, isn't it? A. Yes.

Q. And the reason you wanted to see him then was to obtain some more money from him, wasn't it? A. No.

Q. Weren't you running a little bit short at the time you phoned him?

A. The first time I phoned him was when we first got in town and I still had some of the money left.

Q. Did you ask him for some money when you met him up at this club? A. No.

Q. He didn't tell you to come to his place of residence to meet him, did he?

A. One time he asked me to come over. He was going to dye my hair.

Q. He was going to dye your hair?

A. Yes.

(Testimony of Enola McMath.)

Q. Did he? A. Yes.

Q. And it turned out green, didn't it, in color?

A. Yes.

Q. You didn't like that very much, did you?

A. No.

Q. You were quite angry with him because in dying your hair he turned it out a green color, weren't you? A. Yes.

Q. And after his incompetent attempt at dying your hair, he again gave you some money so that you could go to some beauty parlor and have the green color taken out, didn't he? A. Yes.

Q. When did you come back to Seattle from your sojourn in Portland?

A. It was about a week after we had been in Portland.

Q. Did you come to Seattle, or did you go down to San Francisco? A. I came to Seattle.

Q. Did you go to San Francisco during your absence? A. No.

Q. Did you go to Sacramento? A. No.

Q. Did you go anywhere except to Portland?

A. I came from Portland, I came directly to Seattle.

Q. But when you went down to Portland, you said you registered May 8th. Exhibit 1, as it was read by the [30] landlady of the hotel, said you registered May 25th.

A. I don't remember the date. If that is what the card said, that is the day I registered.

Q. You were looking at the card, Exhibit 1,

(Testimony of Enola McMath.)

when you said it was May 8th. Do you want to look at it again?

A. I can see now what it was.

Q. Is it May 8th or the 25th?

A. The 25th.

Q. From the time you left Seattle, May 25th, until the time you returned to Seattle, were you anywhere else except in Portland, Oregon?

A. No.

Q. Did you tell the defendant that you were going anywhere else? A. No.

Q. Didn't you tell him you were going to Seaside?

A. Oh, we did go to Seaside, but I didn't tell the defendant we were going.

Q. What?

A. I didn't tell Rudy that we were going.

Q. When was it that the defendant, Rudy, as you call him, asked you if you were working? Was that the first time you saw him in Portland or the second time?

A. It was the second time, I believe.

Q. You told him you wanted to go down there to find [31] employment, didn't you?

A. Yes.

Q. And you never suggested to him at any time that you wanted to go down there to practice prostitution, did you? A. No.

Q. You said you wanted to go down to engage in legitimate work, isn't that true? A. Yes.

Q. It was on that promise of yours, or at least it was upon that assertion of your intention that

(Testimony of Enola McMath.)

he loaned you and your sister the 30 or 35 dollars to go to Portland, is that correct?

A. I guess so.

Q. You have never given the defendant, Rudy LaMarr, any money, have you? A. No.

Q. You haven't even repaid him or attempted to repay him for the money that he advanced you?

A. No, because it wasn't considered a loan.

Q. What did you consider it as?

A. He told me at the time that I wouldn't have to worry about the money.

Q. That is after you had been asking him for money, telling him that you hadn't been able to find a job, isn't [32] that true?

A. I never asked him for money.

Q. Perhaps I don't hear you as well as I should. I thought you testified a while ago you went to him and told him you would like to have some money to pay some bills and he gave you \$70, is that correct?

A. I told him the money I needed. I didn't ask him for it. He offered it to me.

Q. You said you had intercourse with him in Portland through intimidation and fear? You were frightened of him? A. Yes.

Q. You recall testifying to that, don't you?

A. Yes.

Q. And it was after that that you went to see him and asked him for the \$70, wasn't it?

A. That was when he gave me the money, yes.

(Testimony of Enola McMath.)

Q. That was some days after this alleged intercourse took place? A. It was the next day.

Q. You weren't afraid of him then, were you? I will withdraw that question. You weren't afraid of him enough to neglect to ask him for money, were you?

A. But I didn't ask him for the money.

Q. Well, you weren't sufficiently afraid of him that [33] you were hesitant to look him up and tell him you needed money to pay some bills with, were you?

A. I had no intentions of asking him for the money when I went up there.

Q. You just figured, I presume, that he would be kind hearted enough to give you the \$70 to pay your bills, is that correct?

A. I didn't expect him to offer it, either.

Q. You did or didn't?

A. He asked me at the time if anything was troubling me and I told him yes it was, and he asked what it was, and I told him, and it was then he offered me the money.

Q. Did you receive money from anyone else in Portland? A. No.

Q. Did you pay your bills in Portland before you came back to Seattle?

A. I had no bills.

Q. Your room rent and all was paid up?

A. Yes.

Q. Do you know a William Kirk?

A. Yes.

(Testimony of Enola McMath.)

Q. Did you get any money from him in Portland? A. No. [34]

Q. Did you obtain anything from him in Portland? A. No.

Q. Who paid your bill at the Washington Hotel? A. I did.

Q. Did you at any time while you were down in Portland go to work? A. No.

Q. By the way, these fictitious names you used at the hotel, that was your own idea, was it not, that is you and your sister?

A. I don't remember.

Q. I mean by that, you thought up the names?

A. Yes.

Mr. Beardslee: I do not believe, Your Honor, I have any other questions of this witness.

The Court: Have you finished with this witness?

Mr. Belcher: Yes, Your Honor.

The Court: The witness is excused from the stand.

(Witness excused.)

BEVERLY JUNE ALLEN

called as a witness by and on behalf of plaintiff,
having been first duly sworn, was examined and
testified as follows:

Direct Examination

By Mr. Belcher:

Q. Will you state your name, please.

A. Beverly June Allen.

Q. Where do you live?

A. 1323 East Pine.

Q. How old are you? A. Nineteen.

Q. How old were you in May, 1950?

A. Eighteen.

Q. Are you acquainted with the defendant in
this case, Rudolph LaMarr? A. Yes.

Q. By what name did you know him?

A. Ali Raschid.

Q. When, if at all, did you learn that his name
was Rudolph LaMarr?

A. Oh, around a week after I knew him or I
met him.

Q. At the time you met him?

A. Yes.

Q. Under what circumstances did you meet him?

A. Well, I was at the club one night——

Q. What club?

A. The Sessions Playhouse, and the waitress
brought over a note from Rudy asking to meet me.

Q. Do you have that note? A. No.

Q. Then what happened? A. Nothing.

(Testimony of Beverly June Allen.)

Q. Did you do anything about the note?

A. Not at first.

Q. Did somebody introduce you to him?

A. Yes.

Q. By what name was he introduced to you?

A. Ali Raschid.

Q. Was anything said in his presence by the person that introduced you as to what, if any, occupation he had? A. No.

Q. Did he ever tell you what his occupation was?

Mr. Beardslee: Objected to, if Your Honor please, as immaterial.

The Court: Overruled.

Q. Answer the question.

A. I believe he was a mental physician.

Mr. Beardslee: I move the answer be stricken, based upon a conclusion. The witness said, "I believe he was."

The Witness: Well, he did say——

The Court: The objection is overruled. The motion is denied. [37]

Q. Do you remember what month of the year it was that you first met him?

A. May, I believe.

Q. After you first met the defendant, what if any conversation did you have with him about prostitution?

A. Well, there wasn't any to begin with, at first.

Q. Well, was there at any time? A. Yes.

(Testimony of Beverly June Allen.)

Q. When?

A. It was one night in the club.

Q. What club?

A. Sessions Playhouse.

Q. In what month of the year?

A. I really couldn't tell you.

Q. What was the conversation? What did he say to you?

The Court: You should fix the year or fix the month or fix the time.

Q. What was the month and the year?

A. In May.

Q. Of what year? A. 1950.

Q. What was the conversation? What did he say to you?

A. Well, he just wanted to know if I wanted to become a prostitute. [38]

Q. What did you tell him? A. No.

Q. Did you meet him at some subsequent date, later date in May?

A. Not that I can remember.

Q. Did you ever meet him at the Elks Club?

A. Only once.

Q. When was that?

A. That was the day before my sister and I left for Portland.

Q. Did you have any conversation with him at that time, I mean the defendant?

A. About prostitution you mean?

Q. Yes. A. No.

(Testimony of Beverly June Allen.)

Q. What was said? What kind of a conversation did you have?

A. Well, we were just going up there to look for work.

Q. Going where? A. To Portland.

Q. Did he say Portland? A. Yes.

Q. What was your answer?

A. Well, I would go if my sister would go. [39]

Q. Did you go to Portland? A. Yes.

Q. Did the defendant accompany you to Portland? A. Yes.

Q. Did you travel together? A. No.

Q. Was anything said by him to you about your not traveling together?

A. Well, he thought it would be best for him to ride in a different coach.

Q. Did he say why?

A. Not to me, that I can remember, no.

Q. Did you see your sister purchase the tickets?

A. Yes.

Mr. Beardslee: I think, if Your Honor please, these questions are getting very leading. I will have to object.

The Court: The last question is leading. Sustained.

Q. What transpired the next day after this conversation that you speak of?

Mr. Beardslee: If your Honor please, that is highly improper, what transpired. It is assuming something not in evidence. I think counsel is entitled to ask, did anything transpire. [40]

(Testimony of Beverly June Allen.)

The Court: The objection is sustained.

Q. What, if anything, was done by you and the defendant in this case on the day following that conversation that you have just related?

A. Well, we just met him at the train depot, train station.

Q. What train depot?

A. I don't remember the name of it.

Q. Well, don't you know whether it was the Union Depot or Great Northern, Northern Pacific or what depot it was in Seattle?

A. Yes, I believe it was the Great Northern.

Q. What happened there?

A. Well, my sister got the money from him and she bought the tickets.

Q. How many tickets did she buy?

A. Two.

Q. Did you go to Portland? A. Yes.

Q. What, if anything, was said to you by the defendant as to what hotel, if any, that you should go to in Portland?

A. He told us to go to the Carroll Hotel.

Q. What, if anything, further did he say about after you got to the Carroll Hotel? [41]

A. I didn't speak to him after that.

Q. Did you go to the Carroll Hotel?

A. Yes.

Q. You have now been handed what has been marked Exhibit 1. Did you ever see that card before? A. Yes.

Q. Where? A. At the Carroll Hotel.

(Testimony of Beverly June Allen.)

Q. Where? In what place?

A. In Portland, Oregon.

Q. What was the occasion on which you saw it?

A. Well, we were registering at the hotel.

Q. Does your signature or your handwriting appear on there? A. Yes.

Q. Under what name? A. Germain Pica.

Q. That was not your name? A. No.

Q. Did you meet the defendant at any time after you arrived at Portland, at the Carroll Hotel?

A. Yes, we met him at the McLeod's Club.

Q. Where, in Portland? A. Yes.

Q. What, if any, conversation took place between you [42] and the defendant at that time?

A. There was none.

Q. What?

A. There wasn't any conversation, not that night.

Q. What did you do at the club?

A. Pardon?

Q. What did you do at the club?

A. Well, I just sat and I danced.

Q. Sat and danced? A. Yes.

Q. Did you at any subsequent time, later time, have any conversation with the defendant about prostitution?

Mr. Beardslee: If Your Honor please, that is highly leading and suggestive.

The Court: Objection sustained.

Q. Did you have any later conversation with the defendant? A. Yes, at his place.

(Testimony of Beverly June Allen.)

Q. Where was his place?

A. I couldn't tell you the address. It was in Portland.

Q. When you say his place, do you mean the hotel in which he was living?

A. No, it was his home.

Q. When was that? [43]

A. When was that?

Q. When was that?

A. I couldn't tell you the date.

Q. What month and year?

A. It was in June.

Q. What? A. June.

Q. June of what year? A. 1950.

Q. What was the conversation?

A. Well, he just wanted to know if I wanted to become a prostitute.

Q. And what did you say? A. No.

Q. Did you become a prostitute? A. No.

Mr. Belcher: I think you may inquire.

Cross Examination

By Mr. Beardslee:

Q. What type of club was this where you met the defendant in Portland?

Mr. Belcher: Pardon me, may I——

The Court: Yes, if there is something else that is material. [44]

(Testimony of Beverly June Allen.)

Direct Examination
(Continued)

By Mr. Belcher:

Q. Directing your attention to last Friday, the month of October, did you see the defendant?

A. Friday? No.

Q. Did you see him at any time prior to this trial? A. I saw him Sunday night.

Q. Where?

Mr. Beardslee: That is objected to as immaterial, if Your Honor please.

The Court: What is the purpose?

Mr. Belcher: The purpose is to show the conversation that he had with her concerning this trial.

The Court: The objection is overruled.

Q. Did you have a conversation with the defendant at that time? A. Yes.

Q. What did he say to you?

A. Well, he was talking about the trial and he was in a round about way trying to tell me how I would tell——

Mr. Beardslee: Just a minute, a round about way, he was trying to, I think the witness should be confined.

The Court: The objection is sustained. It is [45] permissible for you to say in substance what he said. If you can recall his words, you should state his words. If you cannot recall the exact words, it is permissible for you to state the substance of what he said.

The Witness: Well, he was telling me how I

(Testimony of Beverly June Allen.)

could—well, I don't know how to put the words.

Q. In substance, what did he say to you?

A. Well, to deny everything that I had said before.

Q. Did you tell him that you had been interviewed by special agents of the Federal Bureau of Investigation? A. No.

Q. What was it he wanted you to deny?

A. He didn't want me to—he was just bringing it up, I mean.

Q. What?

A. He was trying to tell me if I——

Mr. Beardslee: If Your Honor please——

The Court: You will have to say what he said or the substance and effect of what he said, if you say anything with reference to the conversation. Read the last question.

(Last question read by reporter.)

The Witness: Everything that I have said before——[46]

Q. To whom? A. To the F.B.I. man.

Q. What else did he say?

A. That's all.

Mr. Belcher: You may inquire.

Cross-Examination

By Mr. Beardslee:

Q. Did he accuse you of having been lying?

A. No.

Q. Didn't he say you had lied about him?

(Testimony of Beverly June Allen.)

A. He just told me that he didn't want me to lie.

Q. As a matter of fact, he didn't talk to you at all, did he? A. He did.

Q. Sunday night? A. Yes, he did.

Q. Was anyone else present?

A. There was a friend of mine.

Q. A friend of yours? A. Yes.

Q. Did your friend take part in the conversation? A. No.

Q. Was he there where he could hear everything that was said? [47] A. No.

Q. I presume it was a man?

A. It was a she.

Q. Colored or white girl? A. White.

Q. What was her name?

A. Her name is Pat.

Q. Pat what?

A. I don't know her last name.

Q. What does she do? A. I have no idea.

Q. You say that she is a friend of yours, that you do not know or have any idea what she does?

A. I only met her a few days ago, a week ago.

Q. Where did this occur?

A. My meeting her?

Q. This conversation you are referring to, where did it occur?

A. In the Elks Club, I mean below the Elks, in the restaurant.

Q. The colored Elks? A. Yes.

Q. You are not working there, are you?

(Testimony of Beverly June Allen.)

A. No.

Q. Was he in the restaurant, that is, the defendant [48] when you came in, or were you there when he came in?

A. I was there when he came in.

Q. Were you and this friend, Pat, having dinner together or lunch or something?

A. We were having coffee.

Q. At what hour again was this?

A. Around 10:30 or 11:00.

Q. At night? A. Yes.

Q. I don't know whether you testified that you had children. Have you? A. Yes.

Q. How old are they?

A. My little boy is a year and ten months.

Q. What is your occupation?

A. I have no work now.

Q. How long since you had work?

A. Well, I was married before so I didn't have to work.

Q. Are you divorced? A. Yes.

Q. When were you divorced?

A. Well, my divorce will be final in a couple of months.

Q. Your divorce will be final in a couple of months? [49] A. Yes.

Q. When did you have your trial?

A. I wasn't present at the trial.

Q. Your husband divorced you, then?

A. Yes.

Q. Did that happen here in Seattle?

(Testimony of Beverly June Allen.)

A. No.

Q. Where? A. In California.

Q. Are your children here or in California?

A. My child is with my husband.

Q. In California? A. Yes.

Q. How long has he been in California?

A. He has lived there all his life.

Q. Were you living with your husband together?

A. No.

Q. When did you leave him in California?

A. Around seven months ago.

Q. Then did you come directly up to Seattle?

A. Yes.

Q. When you were in Portland on this occasion in May or June, I believe you have it, did you go down to California then? A. No. [50]

Q. Did you go anywhere except to Portland?

A. I just went to Portland.

Q. Did you look for any work there?

A. Yes.

Q. You told Rudy LaMarr when you left that you were going down there to look for legitimate work, didn't you? A. Yes.

Q. You didn't tell him at the time he gave your sister this 30 or 35 dollars that you were going to look for work as a prostitute, did you?

A. No.

Q. As a matter of fact, you didn't look for work as a prostitute there, is that correct?

A. No, I didn't.

Q. You did testify on direct examination, if I

(Testimony of Beverly June Allen.)

recall correctly, that the first time you met Rudy LaMarr, the defendant in this case, he asked you if you wanted to be a prostitute?

A. The first time?

Q. Yes. A. Yes.

Q. Then you met him several times after that at the Sessions Club, did you, or not?

A. Yes. I didn't meet him, I had seen him there.

Q. You saw him there several times? [51]

A. Yes.

Q. You are how old, youngster?

A. Pardon?

Q. How old are you, youngster?

A. Nineteen.

Q. How old is your sister?

A. Seventeen.

Q. Is it true that after you say Rudy LaMarr, the defendant, asked you if you wanted to be a prostitute, that you then took your seventeen year old sister down there and introduced her to him?

A. Well, he was in the club, I couldn't help but introduce him to her.

Q. Did you warn your sister about him?

A. Yes, she knew what he was.

Q. Before or after you introduced her to him?

A. Before, I believe.

Q. How long have you been going to the Sessions colored night club? A. Not very long.

Q. Well, a year? A. No.

Q. Since you left your husband and came up to Seattle? A. No. [52]

(Testimony of Beverly June Allen.)

Q. Six months? Have you been going there six months?

A. No, not that long, around three or four.

Q. That is a night club where they principally dispense liquor, whiskey and gin, other types of intoxicating beverages? As a matter of fact, you met Rudy LaMarr there about seven months ago, didn't you?

A. I really don't remember how long it has been.

Q. You wouldn't say that it wasn't seven months, would you?

A. I wouldn't say it was and I wouldn't say it wasn't.

Q. This is a club that most of its patronage comes in after midnight, one, two, three, four in the morning, isn't it? A. Yes.

Q. What time of night did you usually go there during the past seven months, two o'clock in the morning?

A. Well, when it opened, it was twelve or before twelve.

Q. It doesn't even open until around midnight, is that right?

A. I couldn't tell you.

Q. Do you know where the club is located?

A. Yes.

Q. What is the address? [53]

A. Fourteenth and Main.

Q. When he asked you if you wanted to become a prostitute, that was directly in the Sessions Club?

A. Yes.

(Testimony of Beverly June Allen.)

Q. And when you said no, that ended the matter, didn't it? A. For then it did.

Q. You say at one other time he asked you if you wanted to become a prostitute? A. Yes.

Q. And you said no? The answer is yes?

A. Yes.

Q. And that ended that?

A. Well, it just—there wasn't any more said about it.

Q. As a matter of fact, he asked you if you and your sister had found work in Portland, didn't he, legitimate work?

A. Yes, and we told him that we didn't.

Q. Told him you did not?

A. That's right.

Q. He asked you if you had been trying to find work, didn't he?

A. Yes, and we told him we did.

Q. Then he said, "Well, what do you want to be, a [54] prostitute, didn't he?

A. No, he didn't say that.

Q. Well, he never at any time asked you to be a prostitute, did he? A. Yes, he did.

Q. When was that?

A. I told you, the Sessions Playhouse, and then up in McLeod's, and then we spoke about it over at his house one day.

Q. This McLeod's or whatever you term it, that is a colored club in Portland? A. Yes.

Q. How many times were you up there?

A. Twice, two or three times.

(Testimony of Beverly June Allen.)

Q. Isn't that a club exclusively colored?

A. No.

Q. Did you see any other white people up there?

A. Yes.

Q. What percentage of people there did you see that were white?

A. Well, it wasn't very many but there was some white people.

Q. Were they white men that you saw there?

A. Men and women.

Q. After you introduced your sister to him, how many [55] times did you see him in Seattle, the defendant, before you left for Portland, Oregon?

A. Three or four times.

Q. As I understand it, the money was given to your sister to buy transportation tickets, is that right?

A. Yes.

Q. Are you sure he was on the same train even that you were on?

A. Yes.

Q. Did you see him board the train?

A. No, but I saw him on the train.

Q. He has never been with you or around you or exposed you to his company at any time in purely white society, has he?

A. No.

Q. The only times he has been seen with you are in colored clubs that you have frequented, isn't that true?

A. Yes.

Q. Clubs to which you have gone, colored clubs to which you have gone before you ever met him or were introduced to him, correct?

A. Yes.

(Testimony of Beverly June Allen.)

Mr. Beardslee: No further cross examination,
Your Honor. [56]

Redirect Examination

By Mr. Belcher:

Q. How long were you at the Carroll Hotel?

A. A week.

Q. Then where did you go?

A. To the New Washington Hotel.

The Court: In what city?

The Witness: In Portland, Oregon.

(Registration card marked Plaintiff's Exhibit 2 for identification.)

Mr. Belcher: I will ask at this time, if Your Honor please, that the witness from Portland, Mrs. Ruthman, be excused.

The Court: Is there any objection to Mrs. Ruthman being excused at this time?

Mr. Beardslee: Your Honor, I do want to ask one question before she is excused. Could you tell us why you were evicted from the Carroll Hotel in Portland?

The Witness: Yes, one day I wanted to borrow an iron from someone and our neighbor next door, which was William—Bill, I don't remember his last name——

Mr. Beardslee: That was the only reason? [57]

The Witness: Yes, and he was in our room because he brought the iron over. That's all that I can think of.

(Testimony of Beverly June Allen.)

The Court: Does that change your wish to excuse the witness?

Mr. Belcher: No, Your Honor.

Mr. Beardslee: It changes mine a little. I would just like to ask the witness before she goes, I don't want to hold her up from going to Portland——

The Court: Proceed to finish with this witness, after which you can interrogate the witness Mrs. Ruthman. Mrs. Ruthman will be recalled to the witness stand for that purpose.

Q. You have been handed what has been marked for identification Exhibit 2. Will you examine that? Did you ever see that before? A. Yes.

Q. What is it, if you know?

A. It is a registration card from the New Washington Hotel.

Q. Does it bear your handwriting?

A. Yes.

Q. What date? A. June 12th.

Q. What year? [58] A. 1950.

Q. What other handwriting does it bear?

A. My sister's, Clair Steven.

Q. Did she sign that card in your presence?

A. Yes.

Mr. Belcher: That is all.

The Court: Any cross examination?

Mr. Beardslee: No, Your Honor.

The Court: Did you wish to excuse her from the stand at this time?

Mr. Belcher: Yes, Your Honor. I offer this exhibit.

(Testimony of Beverly June Allen.)

The Court: Is there any objection?

Mr. Beardslee: No, I believe it is admissible, Your Honor.

The Court: Plaintiff's Exhibit 2 is now admitted.

(Plaintiff's Exhibit 2 received in evidence.)

The Court: Do you wish to recall Mrs. Ruthman?

Mr. Beardslee: Yes, Your Honor.

The Court: The Witness, Mrs. Ruthman, will return to the stand. [59]

MRS. CARRIE L. RUTHMAN

recalled as a witness by and on behalf of plaintiff, having been previously duly sworn, was examined and testified as follows:

Cross-Examination

By Mr. Beardslee:

Q. Sorry to have inconvenienced you further, but do you recall who checked the two girls that just testified into the hotel there in Portland?

The Court: She previously testified on that, I think, but you may repeat that.

The Witness: My clerk, Mrs. Elliott, checked them in.

Q. You don't know a man by the name of Kirk, do you?

A. Yes, he lived in my hotel.

(Testimony of Mrs. Carrie L. Ruthman.)

Q. Your hotel strictly caters to white people, is that correct? A. Always, yes, sir.

Q. Did he recommend these people, do you know? Do you recall?

A. No, sir. Mr. Kirk didn't know them at all. He met them in the elevator of the hotel and it is true they borrowed an iron from this man, Mr. Kirk, but that wasn't [60] my reason for asking them to leave. They invited him into their room to drink beer, to which I strenuously objected, and that was my reason for asking them to leave the hotel.

Mr. Beardslee: That is all the questions I have.

The Court: Do you wish to inquire of this witness any further?

Redirect Examination

By Mr. Belcher:

Q. Do you know the defendant LaMarr?

A. No, I do not. The only time I ever saw the gentleman, he came to my desk one day, several days after those young ladies left and asked if they were in. I said no, they had left, and he asked me where they were and I told him I didn't know. He said he was very anxious to locate them, he was a friend of their mother, of the younger girl's mother, and she was very anxious about her and had sent him to Portland to find them and bring them home. That is the only time I ever met him.

Mr. Belcher: That is all.

(Testimony of Mrs. Carrie L. Ruthman.)

Recross-Examination

By Mr. Beardslee:

Q. He told you that the mother had contacted him to get him to locate these girls? [61]

A. That's right.

Q. If I understood you correctly, that was several days after the girls had left that he came to the hotel and made inquiry about them?

A. That's right.

Mr. Beardslee: That is all.

Mr. Belcher: The witness may be excused, Your Honor.

Mr. Beardslee: No objection.

The Court: You are now excused and may withdraw from the trial if you wish.

MRS. ROSE FERGUSON

called as a witness by and on behalf of plaintiff, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Belcher:

Q. Will you state your name, please.

A. Mrs. Rose Ferguson.

Q. Where do you live?

A. I reside at 1323 East Pine, Apartment 1.

Q. What relation, if any, are you to the two girls named in this indictment? [62]

(Testimony of Mrs. Rose Ferguson.)

A. They are both my daughters.

Q. When was Enola McMath born?

A. September 22, 1933, and she was born in Los Angeles, California.

Q. Where was Beverly June Allen born?

A. Beverly was also born in Los Angeles, California, August 3, 1933—pardon me, 1931.

Q. Were you at any time acquainted with the defendant in this case?

A. No, I have never seen the party, but I have talked to him over the telephone.

Q. What was the talk that he had with you?

A. He wanted to know where the girls were and he was very anxious to get hold of a suitcase that the girls——

Mr. Beardslee: I didn't hear you.

The Court: Read the answer.

(Last answer read by reporter.)

The Witness: ——that the girls had borrowed.

Q. Did you ever meet him at any time?

A. No, I did not.

Mr. Belcher: That is all.

Cross-Examination

By Mr. Beardslee:

Q. Did you ever call the defendant in Portland to ask [63] him about your girls, where they were?

A. No. I called Portland, the Carroll Hotel, to find out about the girls and Mr. LaMarr had called

(Testimony of Mrs. Rose Ferguson.)

me after that, wanting to know where the girls were. I did not call him but he had called me. I also called Portland myself, but the girls were not at the Carroll Hotel, and that is when I was beginning to worry.

Q. Had you had a report that they were in California?

A. A report that they were in California?

Q. Had anyone told you that they were in California?

A. I think Mr. LaMarr had mentioned something about the girls being in California and that he heard through a dancer. The name of the party I can't say, because I don't remember his name.

Q. It was at that time, wasn't it, that you expressed concern over the girls?

A. I called first to Portland, at the Carroll Hotel.

The Court: Just answer the question. Read the question.

(Last question read by reporter.)

The Witness: Yes, I was wondering where the girls were because I knew Mr. LaMarr was connected with them somehow.

Q. So you did ask Mr. LaMarr to try and locate them and send them home? [64]

A. I didn't ask him to send them home; I just told him I was worried about the girls, and he said if he run across the girls that he would send them home.

Mr. Beardslee: That is all, thank you.

Mr. Belcher: No further questions.

The Court: Step down.

GEORGE D. DAUGHERTY

called as a witness by and on behalf of plaintiff,
having been first duly sworn, was examined and
testified as follows:

Direct Examination

By Mr. Belcher:

Q. Will you state your name, please.

A. George D. Daugherty.

Q. Where do you live?

A. 1538 Southeast 29th Avenue, Portland, 15,
Oregon.

Q. What is your business?

A. I am assistant manager and clerk at the
Hotel Washington, Portland.

Q. I will ask you if you ever saw Exhibit 2
before? A. Yes, I have.

Q. What is it?

A. It is the registration card that we register
our [65] guests on as they arrive at the hotel.

Q. Do you recognize the persons who signed
that card? A. Yes, I do.

Q. Are they in the courtroom?

A. Yes, they are.

Q. Are these the two girls?

A. Yes, they are.

Q. What was the date of the registration?

A. June 1, 2:11 p.m., 1950.

Q. Did you ever meet the defendant LaMarr?

(Testimony of George D. Daugherty.)

A. On one occasion.

Q. What was that?

A. It was about June 8th or 9th or 10th. He came in inquiring of the girls.

Q. What did he say?

A. He handed me his card, Ali Raschid, metaphysicist.

Q. What?

A. Ali Raschid, metaphysicist. He claimed he was representing the mother, who was very worried about the girls, and he was trying to locate them for her.

Q. Were the girls registered at your hotel?

A. No, they had checked out previously.

Q. How long?

A. I believe they checked out on the 5th, about three or four days previous to the time he was in.

Q. Was there any record in your hotel, records of any telephone calls?

A. In reference to local calls or long distance?

Q. Long distance.

A. Long distance, there was one.

Q. Where was that call made to and by whom?

A. It was made from the girls' room to Richmond Beach, Washington.

Mr. Belcher: You may inquire.

Cross-Examination

By Mr. Beardslee:

Q. You said when Mr. LaMarr came into your hotel and made inquiries about the girls was any-

(Testimony of George D. Daugherty.)

where from three to five days after they had checked out, is that correct?

A. Approximately, yes.

Q. And he did advise you that the mother was anxious to locate them? A. That's right.

Mr. Beardslee: I have no further questions.

Mr. Belcher: Nothing further. May the witness be excused?

The Court: Any objection?

Mr. Beardslee: No, Your Honor.

The Court: This witness is excused. Call the [67] next witness.

Mr. Belcher: The government rests.

The Court: The defendant may now proceed.

Mr. Beardslee: I don't know whether I choose to put on any defense. I want to offer an argument to the Court in the morning. I was wondering if we might recess.

The Court: We can hear the argument now. We will determine the rest of the procedures later. However, at this time the jury will be excused under the Court's previous admonition. Remember and heed the Court's previous admonitions carefully in all respects during this overnight period when the jurors will be absent from the jury box. I ask the jurors to be here tomorrow morning at ten o'clock. The jurors are now excused until ten o'clock tomorrow morning and may retire until that time.

(Jury retires.)

The Court: I will hear you now.

Mr. Beardslee: May it please Your Honor, at this time the defendant challenges the legal sufficiency of the government's evidence to sustain the charge on either count of the indictment and moves for dismissal, or in the alternative requests a directed verdict of not guilty. [68]

I am morally certain in my own mind, my own recollection of the testimony, there isn't any evidence which would warrant the conclusion that the defendant transported by common carrier or even otherwise these two girls to Portland, Oregon for the purpose of practicing prostitution. The only evidence offered by the government was directly from the two girls. They said they went down there with the understanding that they were going to obtain legitimate employment, and that Mr. LaMarr advanced—one girl used the term "loaned them" the sum of \$35 for their transportation down there.

Now, aside from the testimony of the girls, everything else is based upon circumstantial evidence, and I think it is so well settled in law that it is now elementary that when circumstantial evidence is relied upon for a conviction, those circumstances must consist of a chain of circumstances in which there is no weak link. In other words, every link in that chain must be consistent with guilt and inconsistent with innocence.

They did say, the first girl testified Mr. LaMarr had recommended two different hotels. They said they phoned him. He made no effort to contact

them. They met him over at this colored club in Portland. What [69] did he ask them? He said, "Have you found work yet?" and they said "No."

All right, then they met him later. It is the purpose of their going down there that controls in this case. If someone wants to journey to Portland for the purpose of finding legitimate work and then it develops after they arrive that someone or other wants to or does fornicate, that is a matter to be handled by the state, not by this government. We are only concerned with the purpose of the transportation.

There isn't any inference of guilt or intent on the part of this defendant that can be drawn from the government's testimony. In fact, the two girls themselves definitely cleared the defendant when they each separately testified that they went down there to obtain employment, they did not have work here. The last girl testified she had not worked since she left her husband. No wonder they wanted to find work. I think it was admirable on their part to desire work; one a frequenter of night clubs, if not the other, that is true, but there are many people who go to night clubs that still desire to find honest, legitimate employment. There are many girls, if I understand correctly, and can believe what I read, that are promiscuous and nevertheless earn their own [70] livelihood.

Another part of the testimony, if Your Honor please, that to me was impressive was the last girl, "Did you ever give Mr. LaMarr any money?" "No," but he advanced them money and one girl referred

to it as a loan. Whether it was a loan or whether it was not I don't know, but the charge here is that LaMarr sent them down there to have them engage in prostitution for his benefit. The facts absolutely contradict that, every iota and item of testimony introduced.

I am not going to make any more lengthy argument tonight, but I wish the Court would seriously consider what I have said, because there just isn't any evidence here to send this case to the jury.

The Court: As to Count Two, Mr. Belcher, what have you to say, if anything?

Mr. Belcher: As to Count Two, if Your Honor please, the charge is——

The Court: I mean, in response to this challenge and motion.

Mr. Belcher: ——going from Seattle to Portland with the intent on the part of the defendant Rudolph LaMarr that the said Beverly June Allen should engage in the practice of prostitution and debauchery. The [71] evidence as it stands at the present time is from the lips of this witness that he propositioned this woman the second or third time he met her in Seattle. He formed the intent on the occasion when he asked her if she would go into the business of prostitution. He renewed this offer after inducing her to go to Portland by train.

If Your Honor please, the rule is not as restricted as it used to be in that this White Slave Traffic Act was enacted for the purpose of preventing commercialized vice. That rule has long since gone out the window, and the last expression of that is in

329 U. S. in the case of *Cleveland vs. U. S.*, decided by the Supreme Court of the United States on October 17, 1946.

It refers to the Ninth Circuit Court case of *Caminetti* with which Your Honor is very familiar. The rule is that the jury in this case is entitled to consider this evidence, the circumstances surrounding the entire transaction. The rule is well settled that the act of prostitution, the thing which motivated the movement in interstate commerce of these two girls, the intent was formed in Seattle here, under the evidence of this girl, where he asked her to practice prostitution. The fact that the crime was not [72] consummated, that is to say, that the purpose of the trip was not consummated, is wholly immaterial.

I quote, if Your Honor please, from *Qualls vs. U.S.*, the Fifth Circuit, decided July 5, 1945, 149 F. 2d 891.

“It is argued that the real object of the trip was legitimate and the sexual aspect incidental and not contemplated as the purpose of the transportation of the girl. This was proper to be argued to the jury, but there was no evidence that appellant in truth was recruiting Navy workers at all, that he had arranged to pick up any other girls at Bryson City and Franklin . . .”

This was a case where the man said he was recruiting Navy workers and he was trying to induce this girl to go in interstate commerce with the avowed purpose of turning her out as a prostitute, although the testimony was that she was seeking

employment, just as here. It was a proper case for argument to the jury.

“This was proper to be argued to the jury, but there was no evidence that appellant in truth was recruiting Navy workers at all, that he had arranged to pick up any other girls at Bryson City and Franklin, or had any job in Atlanta for this girl. In Atlanta [73] he told her he was working in Florida and tried to get her to go on there with him. The jury were warranted in thinking he purposed from the beginning to do just what he did do, and that he transported and caused to be transported in interstate commerce this girl for the purpose of having her engage in debauchery with him. This is within the very language of the Act, and the fact that she did not know his purpose when she agreed to go and successfully evaded it afterwards does not erase appellant’s offense, completed by transporting her from North Carolina into Georgia with the purpose stated. Mitigating circumstances, if any, were no doubt considered in sentencing.

“Judgment affirmed.”

The rule in this circuit is well established in the Caminetti case and reaffirmed, as I say, in the Cleveland case that is reported in 329 U.S. I submit that the motion should be denied.

The Court: The challenge is overruled and the motion for directed verdict and for dismissal as to each of the two counts is denied.

Those connected with this case are excused until tomorrow morning at ten o’clock. The court is adjourned until tomorrow morning at ten o’clock.

(At 5:08 o'clock, p.m., Tuesday, October 17, 1950, proceedings adjourned until 10:00 o'clock, a.m., Wednesday, October 18, 1950.)

October 18, 1950, 11:00 o'clock, A.M.

The Court: I think the jury might wish to have a recess now. I understand you have been there in the jury box during all the time you have been delayed. The jury will temporarily retire for a short recess.

(Jury retires.)

Mr. Beardslee: May it please Your Honor, at this time I would like to reserve an exception to the ruling made on my motion of last night.

The Court: Exception allowed.

Mr. Beardslee: And the defendant will now rest.

The Court: Will you wait until the jury returns for those procedural purposes.

Mr. Beardslee: Yes, Your Honor, but I would like to advise the Court on resting to renew the motion of last night without further argument, based upon the argument which I made last night.

The Court: Is there any objection to the Court considering this motion made after the defendant rests and that the Court then as of that time does consider the motion and does make the same ruling as previously made?

Mr. Beardslee: No objection to that, Your Honor, and if the Court will allow an exception to the adverse ruling.

The Court: Exception allowed. Let the record

show that it is to be noted in the record. Bring in the jury.

(Jury returns.)

The Court: May the record show call of the jury waived and that all the jurors are present and also all parties on trial with their counsel.

Mr. Belcher: Yes, Your Honor.

Mr. Beardslee: Yes, Your Honor.

The Court: The defendant may now proceed.

Mr. Beardslee: May it please Your Honor, at this time the defendant rests.

The Court: Let the record show, as the Court indicated it should show, which arrangement was made in the absence of the jury a moment ago with respect to the renewing of the challenge and motion and the Court's ruling thereon, the same being considered [76] renewed and the Court's previous ruling being the same and exception allowed.

It now remains only for counsel to argue the case on the merits upon the evidence received before the jury and thereafter for the Court to instruct the jury as to the law governing the case, and finally for the Court to submit the case to the jury for its decision and verdict.

In making these arguments, the plaintiff's counsel, Government counsel, has the right to make the opening argument and also the closing argument, and in between those will occur the defendant's argument. These arguments are not evidence, but they are intended to be a fair comment made by counsel on what they understand the facts to be,

and what the effect of the proof and facts may be respecting the issues in this case. Counsel have a right to make these arguments if they are fairly based upon evidence or reasonable inference of evidence, and the jury has the right and duty to consider those arguments, but if there is any conflict between the recollection of the jury as to the facts as to any point in the evidence which the evidence discloses, if there is any conflict between the jury's recollection and counsel's recollection, the jury's recollection prevails. It is for the jury to remember the evidence. [77]

At this time we will hear the opening argument of plaintiff's counsel. When arguing to the jury, counsel may take any position in the courtroom most agreeable to them.

Mr. Belcher: May it please the Court, counsel, ladies and gentlemen of the jury:

The only purpose of an argument on the part of the United States Attorney's office is to direct your attention to the evidence from which you are to arrive at your final verdict.

It is not going to be my purpose to try and make this jury believe that the evidence is any different than you have heard. It is as much my duty as an assistant United States Attorney to protect the interests of the defendant as it is to forward the interests of the Government. Your Government does not want an innocent person convicted of any kind of a crime, and I am not here begging you for a conviction.

The purpose of my remarks will simply be to

direct your attention to that evidence which I believe points clearly to the guilt of the defendant on both counts of this Indictment. You will recall the testimony of both of these girls was that this defendant represented to them at the time they first met him that he was a metaphysicist. You have not heard the definition of [77-a] a metaphysicist. It is a fortune teller. One of the girls, I think, testified that he said he was a mental physician.

I don't believe that in using your good common sense—that is all you are required to do here to arrive at the truth of this case—that any further evidence than that which has come from the mouths of these two girls is necessary to enable you to find beyond a reasonable doubt that the defendant did, as charged in the Indictment, on or about the 15th of May, 1950, “. . . knowingly and unlawfully persuade, induce and entice Enola McMath, a female, who had not attained her eighteenth birthday, to go from Seattle, in the Northern Division of the Western District of Washington, by common carrier, to Portland, Oregon, with the intent on the part of the defendant Rudolph LaMarr that she, the said Enola McMath, be induced to engage in prostitution and debauchery.”

What was the testimony in that respect? This young lady testified that when she first met this man at the Sessions Club here in Seattle, that she danced with him. On two or three other occasions, they had several conversations. She doesn't say and hasn't said that he at any time propositioned her to engage in prostitution. What, then, was in this

man's mind when [77-b] he suggested to these girls that there was more work in Portland than there was in Seattle? Don't you believe from the evidence that has come from the lips of these girls, this girl in particular, Enola McMath, that it was the intent and purpose of this defendant to seek sexual relations with her? She has testified that she did have sexual relations with him at Portland on two different occasions. That is debauchery.

On the second count, the undisputed evidence in this case is that after Enola had introduced her sister, Beverly June Allen, to the defendant at the Sessions Club in Seattle, that the defendant propositioned her to engage in prostitution.

Now, that was in Seattle, long prior to the time he paid their fares, gave to Enola \$35 for the purpose of transporting her and her sister from Seattle to Portland. The testimony is that they went to the Great Northern station, if you recall, with the defendant himself, and the conversation that occurred at that time was that he would accompany them but he would travel in a different coach.

Now, there must have been some reason. If this was a legitimate, up-and-up proposition of attempting to take these girls to Portland to find them work, why would it be necessary for him to travel in a separate [77-c] coach? The inference to be drawn from that is that he didn't want to be seen in the presence of the girls on a common carrier, because he knew that if he was seen in the presence of these girls on the railroad train transporting them from Seattle to Portland, Oregon, he was violating the

Mann Act or White Slave Act, and he did not want to be caught.

This girl in the second count is Beverly June Allen. She is the girl that prior to the time he furnished the money for the tickets to go to Portland, he propositioned her to engage in prostitution. The undisputed evidence is that prior to that transportation, the defendant himself told them the hotel at which they should register.

Now, they did register there. There is in evidence Exhibit 1, which shows the two girls, under the names of Clair Steven, who is the victim in Count II, signed this registration card at the Carroll Hotel, the very place that the defendant told these girls to go. The girl in Count I registered under the name of Germain Pica.

You saw these two girls on the witness stand. I believe that you are sufficient judges of human nature to be able to determine from their conduct on the witness stand whether or not you believe they were [77-d] telling the truth when they told this story that they told you.

Undoubtedly the defendant had a lust, sexual lust, for this younger girl in Count I, and after arriving in Portland, he induced her to go to his hotel room. She has told you what occurred there. She has told you why it happened. She said she was afraid of him, not only on one occasion, but on two occasions, so that so far as Count I in this case is concerned, you are at liberty, I think the Court will instruct you, to take into consideration all of the circumstances.

Intent is an ingredient of this crime. I apprehend that the Court will instruct you on the question of intent. It is physically impossible for you or for me to look into anybody's mind and determine what his intent on any given subject is. The very acts, the very things that occurred, relate back to the intent that that man had, the defendant had, at the time he gave them the money to pay their transportation from Seattle to Portland. He formed that intent before he ever left with these girls for Portland. His very acts and conduct show clearly that that was his intent.

As to the other girl in Count II, as I have said before, he propositioned her to engage in prostitution in the City of Seattle several days prior to the time [77-e] that he furnished the money to transport her by the Great Northern Railway from the City of Seattle to the City of Portland, State of Oregon. He followed up that intent by conferring with her again, having a conversation with her again that she engage in prostitution in the State of Oregon. She didn't do it, but that doesn't make any difference. The gist of the crime is the transportation between Seattle in the State of Washington and the City of Portland in the State of Oregon. He does not have to accomplish his purpose, that intent.

The girl has told you that she did not engage in prostitution either here in the City of Seattle or in the State of Oregon, but there is no evidence to contradict or controvert her statement that that proposition was made to her in the City of Seattle and again made to her after she arrived in Portland

at his expense. I don't know what further evidence any jury requires in this type of case.

It wasn't anything very pleasant for these young girls to have to come here and tell you jurors the story that they unfolded to you. Your Government and my Government enacted this Mann Act for the protection of girls just such as these two girls against the lust of men, and it is your duty as jurors and it is my duty as an officer of this court to see that the guilty are [77-f] punished if they are guilty.

You will be instructed by the Court that before you can find the defendant guilty you must find beyond a reasonable doubt first that he had the intent to do the things that were done. He carried out the intent in the one case by his lust, his sexual lust. He was unable to carry out his intent in the other, but that does not relieve him. The gist of the crime is the transportation in interstate commerce for that purpose. Your Congress does not want interstate commerce polluted, as evidenced by the plain language of the statute, which will undoubtedly be called to your attention in the Court's instructions to the jury.

I submit in all candor that there is but one verdict that you can return conscientiously in this case, based upon the testimony of the witnesses from the witness stand, together with the circumstances surrounding that transportation. Is there anything here to refute the story of these girls? I submit, ladies and gentlemen of the jury, that it is your sworn

duty in this case to find the defendant guilty as charged on both counts. Thank you.

The Court: At this time we will hear defendant's answering argument.

Mr. Beardslee: May it please Your Honor, Mr. Belcher, [77-g] ladies and gentlemen of the jury:

I am always reluctant to approach the final stage of a lawsuit, because I know that it affords me the last opportunity that I may have of properly representing a client who has placed his confidence in me as an attorney, who has believed that I will fairly represent the matters to you, not only fairly, but also competently. There are many things that worry a lawyer in the trial of a lawsuit. They principally concern the fear that an attorney has that he may not competently or adequately represent the person who has placed confidence in him. I started out as a school teacher; I wish I had sense enough to keep it up. I wouldn't have so many sleepless nights.

The principal thing that worries me in this case is that I cannot help but feel that there may be some latent prejudice against a colored man associating with white women, and by that I don't mean prejudice on its face, but it may be something latent that you are not conscious of until the actual facts are presented to you.

With respect to that, I hope you will all consider who sought who in this case. The defendant, Rudy LaMarr, was at a Negro nightclub where Negroes gather. These girls, first, the older one, came into the club, was [77-h] introduced to him. She said

she was with a party of other people. All right, this wasn't an idle case or a separate case or an individual case of someone going slumming. If you were, and you were with a party of white people, you wouldn't be introduced to a colored person you didn't know, would you? You would resent anyone, whether white or colored, coming to you, unless it was some celebrity that maybe you wanted to meet so you could say that "I have met so-and-so."

But that was not the question here. The older girl said she had been going there for over seven months, maybe not over, but approximately seven months. Why? All right, the older girl did not testify, as Mr. Belcher said, that Rudy LaMarr, the defendant in this case, tried to induce her into prostitution. She testified LaMarr asked her if she wanted to become a prostitute, and that is the most that you can place on that.

Mr. Belcher spoke with some disparagement about the defendant being a metaphysicist—I'll twist my tongue on that—well, a fortune teller. He isn't charged in this case with being a fortune teller. With respect to the change of name, I suspect that the name Ali Raschid probably carries more mystery as far as a fortune teller is concerned than the simple name of Rudy LaMarr. Is there any harm in that? And if there [77-i] was, it isn't involved in the trial of this case.

Now, Mr. Belcher has interpreted the testimony in one way, and if he is sincere, I can only say that I sincerely do not agree with his interpretation of it. If it wasn't for disagreement on many issues,

we wouldn't have Democrats opposing Republicans. We wouldn't have the trial of lawsuits, because we could always agree on something. We wouldn't have horse races, we would always know which horse was going to win. I do not accuse Mr. Belcher of insincerity, but I do feel that he has misinterpreted the testimony in this case.

It isn't incumbent upon the defendant to deny an allegation that is not proven. I think it would be a mistake to lend dignity to a denial. For instance, if somebody questions the authenticity of my birth, questions the character of my mother in a statement that many of you—the term that is used, that many of you are familiar with—I am not going to dignify that with a denial. I would take one of two alternatives; I would either hit him in the nose or else I would turn and walk away and see that that gentleman never entered my home again for such a silly and absurd and illfounded accusation.

I hope you folks won't think that I am trying to insult your intelligence in arguing this. You have heard the evidence as well as I have. Many of you have had as much, some of you more, experience in life than I have. You are just as competent to analyze testimony and the credibility of witnesses who have been on this stand as I.

I do not know all of the instructions the Court will give you, but when those instructions are given I sincerely hope that you will pay particular attention to them, because regardless of what counsel and I may believe the law to consist of, the final

authority in your deliberations is the law given to you by the Court in its instructions.

I do not know, but I am morally certain that in this instance the Court will instruct you definitely that if you believe, although you should be slow to believe it, but if you do believe that a witness has wilfully testified falsely in any one respect, you may thereupon disregard all of the other testimony of that witness unless it is substantiated by other credible testimony.

Let's start with the other girl. She met LaMarr. She testified, unless I am badly mistaken, and it was with some reluctance and after some hesitation, that when she first met LaMarr, that he asked her if she wanted to become a prostitute. She said no. Did he [77-k] ever pursue that issue any further? Except the instance alleged in Portland, she said no.

Well, I don't know how you can actually receive that testimony without not only a grain of salt but a considerable quantity of it, because she testified that sometime later she brought her 17 year-old sister down and introduced her to him. Now, you know that just doesn't make sense.

I would like to suggest this to you now, that I dislike, I abhor the duty of having to cross-examine a woman, because I may have given the impression that I was brutalizing those girls. Well, I hope that none of you have that impression, but if you do have, I would like to have you understand that that should be held against me, not against the defendant, because he had no control over my cross-

examination. I was acting on my own initiative and what I thought was my duty in an effort to get at the real truth in this matter.

I believe that the Court will instruct you that prostitution means something that is commercialized. I think most of you have heard of the activities of panders, and, if you will excuse the term, pimps. They commercialize on women. They put them out for hire. Now, has that ever been suggested in this case? Both these girls testified that they went to Portland with [77-1] the understanding that they gave Rudy LaMarr, that they were going down there to seek legitimate employment, not to go down for prostitution.

It has been my experience through several years' practice of the law that a greater percentage or majority of men are made suckers of by women than women have been made suckers of by men. Now, from your evidence here, isn't it plainly indicative of the fact that Rudy LaMarr was honestly trying to help these girls? They wanted to go down for legitimate employment, they told him they were. He furnished them \$35. After they had been in Portland for some time, he gave them another \$70, and their testimony is vague as to whether they wanted it to pay up their bills or whether they wanted to go home.

Again getting back to the place, who sought who. After they arrived in Portland, did Rudy LaMarr look them up? No, they called him and arranged to meet him where? At a Negro club. And what was the first thing he asked them? "Are you working,"

still referring to this legitimate employment they were coming down on. "No." If he hadn't been so stupid, if he had had sense enough to inquire into their history before they ever left Seattle, he would have realized probably they didn't intend to work. They would rather live on [77-m] borrowed money.

You have heard the older girl testify; had she worked; No, she had been married. She left her husband and child in California, came up here, for what purpose? I don't know, but I know what she did, she became a frequenter of Negro nightclubs. How can you credit the testimony of a person with that background?

But even if you do credit the testimony, what is the worst that she has said? That Rudy LaMarr asked this older girl if she wanted to be a prostitute. That, she said, hapened up at the Sessions Club and again in Portland, he asked her if she wanted to become a prostitute. Did he urge? Did he entice? Under her testimony, I mean, now. I have grave doubts in my mind, and I think you have, too—I hope you have—that he ever made that statement, but if he did, is there any enticement, any inducement? She testified on the witness stand, perhaps reluctantly, that on each occasion she said no, and nothing further was said by Rudy LaMarr.

Now, back to the younger girl. There again, it was with considerable reluctance that I felt it my duty to cross-examine her. She testified the same as her sister did, that they were going down to get legitimate work. They told LaMarr that is what

they were going down for. They registered. She again affirmed her [77-n] sister that in this conversation after they had phoned him, they were the pursuers, that after this conversation, subsequent to their calling him, they met him there. What was he asking? "Well, have you found jobs? Are you at work?"

How can you figure an evil intent in a man's mind? After all, intent is something that we cannot measure. I may be so angry on occasions that I intend to do many things that are antisocial. I may intend to punch someone, but I don't go through with it because I do realize that civilized people don't engage in fist fights, especially after you reach my age.

All right, this girl said that she had intercourse with LaMarr at his home in Portland. She said the reason why she did, that she was afraid of him. Do you remember how I developed that, her fear, brought out the fact that this nightclub—and I think some of you people realize why they do have policemen there, if folks become unruly, they hire policemen in uniform when they are off duty to keep a certain amount of order in the event of a fight or something like that to protect the nightclub personnel. Well, if she was afraid of him, all she had to do was go over and speak to that policeman.

She boarded a train, I believe it was the [77-o] older girl testified he rode on the same train but in an entirely different car or section of the train. If she was afraid of him, why wouldn't she have

told the conductor or some official on the train? Why wouldn't she have stopped at Tacoma, got off the train and come back home? She said she had money left over when she arrived in Portland.

I don't believe that Mr. Belcher should seriously argue to you that the statement of these girls is true in any particular. I have often wondered why this case originated. I thought I was beginning to find out when one of these girls testified about his attempt to dye her hair at her request—I don't know whether you call it dyeing, or what they did. I guess he wasn't too experienced, it turned out green, and she said she was highly resentful of it. That may have originated it.

There was another matter of evidence that to me was important. There seemed to be a decided reluctance on the part of the prosecuting witnesses to come out with the truth. The matter I was about to refer to is that the mother admitted that she had a conversation with LaMarr over the phone, said she was worried about the whereabouts of her daughters and asked him if he would find them. He did, he went first to the—was it the Carroll Hotel? Maybe you folks remember that [77-p] better than I do—several days after the girls had left. Now, if he had wanted them down there for the purpose of prostitution, he would have been seeking them every day, wouldn't he? No, several days after they left there, after the mother had expressed some worry and concern over them.

All right, then, through some information he went to the Washington Hotel. He identified himself

and he told them why he was inquiring about the girls, the mother wanted them. Now, the mother admitted, finally conceded that that was true, and even that, if I recall the testimony of the Washington Hotel's clerk correctly, was three or four or more days after the girls had left that hotel. He didn't even know they had been in there. These fellows that want to use women for prostitution, they keep constant track of them, so I am told, daily reports. No effort on his part to keep in contact with them at all, in fact, the only time he had contact with them was when they sought him out. That to me was of considerable importance.

The liberty of most of our people in this country is of more value to them than life itself, and I am inclined to believe that a colored person probably values his liberty as much as we white people do. You have all read the talk of Patrick Henry prior to the [77-q] institution of the American Republic when we sought our independence from England. You remember the golden truth of his talk, "Give me liberty or give me death." That is the theme song of most of our people.

I know, or at least, I believe, that you will be instructed that you are not to be influenced in your verdict by passion, prejudice or sympathy, but I am at liberty to advise you that this charge is of a very serious nature. The maximum penalty provided is very high.

You notice that we had many challenges we were permitted to use. I would like to tell you why that is. The law through the wisdom of the ages has

definitely decreed every man accused of an offense is entitled to a jury of his peers, an unprejudiced jury, unprejudiced to any extent whatsoever. That is why the law says that you must presume a man to be innocent unless he be proven guilty beyond all reasonable doubt, and that means guilty of the charge with which he is faced. A reasonable doubt means, of course, a substantial doubt, not just a fictitious one.

Mr. Belcher, if I understood him correctly, in his argument to you said, look into his mind and find him guilty. If that isn't the purest speculation in the world, I don't know. All of his acts are to the contrary. [77-r]

On this matter of circumstantial evidence, what are the circumstances? That he loaned them money. Is that consistent with guilt? No, it is consistent with innocence on this charge. In circumstantial evidence all of the circumstances must, in my opinion, be consistent with guilt. If there is any one circumstance that is inconsistent with guilt but consistent with innocence, then it is your duty to disregard circumstances that might be conflicting therewith.

I could go on and argue this as long as the Court would be patient enough to permit me, but because the evidence consumed only about half a day in trial, and because you are just as capable, if not more so, of remembering the evidence, because you are unbiased and because I may be biased for fear that I have not properly conducted the trial, you

are in a better position to adjudge the evidence than I am.

I again want to suggest that I sincerely hope that you will listen attentively to the Court's instructions, and if I have misquoted any evidence, I hope again that you will hold that against me, not against my client. I would like to have—oh, not a hasty deliberation, but I think this man is entitled to acquittal, and I think he is entitled to a fast acquittal.

The Court: We will hear the Government's closing [77-s] argument.

Mr. Belcher: If Your Honor please, it is not a question, as counsel suggested to you, as to who sought who in this case. These girls are not on trial. What may have been their intention is an entirely different thing than what was the intention of the defendant with his philanthropy. It stands to reason that no man, white or black, is giving to a woman \$105—that is what it was, \$35 and \$70—unless he expects something in return.

You will recall the testimony of Enola that she was employed as a waitress, that this man telephoned her and told her he was coming up from Portland and was going to drag her out of that restaurant. She didn't go to work the next day and she lost her job on account of it.

The testimony of these two girls is that the defendant, if you please, not they, the defendant, said that there was much more work in Portland. Who suggested the Portland trip under the testimony in this case? Was it suggested by these girls

or was it suggested by the defendant? You heard the evidence. No, you are not concerned with what the intent of these girls was at all. What man is putting up \$105? He is not known as a philanthropist, at least, there is no testimony [77-t] here to that effect. Why these girls? Why so interested in seeking employment for others in another state? He made it impossible for this girl, Enola, to continue in her job as a waitress in the City of Seattle, and it was he who suggested the trip to Portland and not either of these girls. I admire the girls for refusing to go unless they both went, self-protection.

You judge a person's intent in the ordinary affairs of life by what they do. It is the only manner in which you can determine what a person's intent is. What did he do? He formed the intent in Seattle when he propositioned one of these girls to be a prostitute. He formed that intent in Seattle. Then he connived to pay their fare to Portland. They don't deny in this record that he paid that transportation. That in itself, coupled with the other facts, shows what his intent was, and I say that a person is very gullible who cannot conclude that that was the intent of this defendant in this case. Thank you.

Mr. Beardslee: May it please Your Honor, could I be excused from the courtroom? Mr. Gemmill, associated with me, will be here.

The Court: I ask the defendant if he approves of the request just made by Mr. Beardslee. Do you

approve of Mr. Beardslee's absenting himself during the [77-u] remainder of the trial?

Defendant Raschid: That's okay.

The Court: Do you accept Mr. Gemmill in all respects as and for your attorney during all these proceedings?

Defendant Raschid: Yes, sir.

The Court: Do you agree to so act, Mr. Gemmill?

Mr. Gemmill: Yes.

The Court: Mr. Beardslee is excused under those conditions.

Court's Instructions

The Court: Members of the jury: You have heard the testimony and arguments of counsel. After the Court instructs you, you will retire to the jury room to consider your verdict.

In this case the indictment reads in substance and effect as follows:

"Count One, the grand jury charges that on or about May 15, 1950, the defendant, Rudolph LaMarr, who stated at his arraignment that his true and correct name is Ali Raschid, did knowingly and unlawfully persuade, induce and entice Enola McMath, a female, who had not attained her eighteenth birthday, to go [77-v] from Seattle, in the Northern Division of the Western District of Washington, by common carrier, to Portland, in the State of Oregon, with the intent on the part of the defendant Rudolph LaMarr that she, the said Enola McMath, be induced to engage in prostitution [77-w] and debauchery," in violation of the law.

As to Count Two, the grand jury charges "that on or about May 15, 1950, the defendant, Rudolph LaMarr, who stated at the time of his arraignment that his true and correct name is Ali Raschid, did knowingly and unlawfully persuade, induce and entice Beverly June Allen, a female person, to go from Seattle, in the Northern Division of the Western District of Washington, to Portland, in the state of Oregon, with the intent on the part of said defendant Rudolph LaMarr that the said Beverly June Allen should engage in the practice of prostitution and debauchery, and the said defendant Rudolph LaMarr did thereby knowingly cause said Beverly June Allen to go and to be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon," all in violation of the law.

In this case there is one defendant on trial before you on the two counts of the indictment.

To the indictment, and to each of the counts thereof, the defendant on trial has entered a plea of not guilty. This plea of not guilty puts in issue every material allegation of the indictment on which the defendant is being tried, and casts on the government the burden of proving the guilt of the [78] defendant by the evidence beyond a reasonable doubt. The defendant on trial is not called upon to disprove the charges of the indictment, nor to prove his innocence.

The indictment is merely the paper charge and formal accusation against the defendant, which he

has had no opportunity to answer until this trial, and the indictment is not to be considered by you as evidence in any sense against the defendant, and the fact that the indictment has been returned by the grand jury is not to be considered by you in any way as evidence against the defendant of the truth of what it states. The burden is always on the government to prove the defendant guilty by competent evidence beyond a reasonable doubt, and that burden must be successfully met by the government before you can convict the defendant.

In this case you must consider separately each count of the indictment upon which the defendant is being tried. You must decide the guilt or innocence of the defendant as to each count separately, and if you have a reasonable doubt as to any material allegation of the particular count or counts of the indictment you are considering, it is your duty to acquit the defendant as to such count or counts; but [79] if you have no such reasonable doubt concerning any such allegation, it is your duty to convict the defendant on each count as to which, under the evidence, if there is any such count, you have no such reasonable doubt.

The defendant on trial, as well as every defendant in a criminal case, is presumed to be innocent of the charges contained in the indictment until he is proved guilty by the evidence beyond a reasonable doubt, and this presumption is one of his important rights, not to be ignored or lightly considered either by the Court or by the jury.

It is one of the important rights which the law

accords all persons accused of crime. It attaches to them and continues with them throughout all stages of the trial and throughout all stages of your deliberations until it has been overcome by the competent evidence in the case and until the guilt of a particular defendant has been established by the evidence beyond a reasonable doubt, notwithstanding the presumption of innocence with which the law clothes all accused persons. This applies to the defendant on trial here.

By the expression "reasonable doubt" is meant in law just what those words in their ordinary and every [80] day use imply; they have no technical or legal meaning different from their ordinary meaning. A reasonable doubt is a doubt which is based upon reason or is a doubt that is not unreasonable, and not merely imaginary or capricious. It is such a doubt, as, if entertained by a person of ordinary prudence, sensibility and decision, he would allow to influence him in transacting the graver or more important affairs of life, causing him to pause and hesitate before acting thereon. It must be a real and substantial doubt and it must rise out of the honest minded, common sense, consideration and application of the evidence in the case or from lack of evidence in the case.

If from a fair and candid consideration of all the evidence you can say upon your oath as jurors that you have an abiding conviction of the truth of the charge to a moral certainty, then you have no reasonable doubt and should convict. If you have no such moral convictions, or if you entertain doubts

for which sane and satisfactory reasons can be assigned in your own minds, you must give the defendant the benefit of that doubt and find him not guilty.

Even though the evidence in this case should engender in your minds a strong suspicion of [81] probability of guilt of the accused, still the defendant cannot be convicted unless you are satisfied beyond a reasonable doubt of his guilt.

In considering the evidence in this case, I charge you that it is not sufficient for you to find merely that the evidence adduced is consistent with the theory of the defendant's guilt, but before you can find the defendant guilty you must believe beyond a reasonable doubt that the evidence is inconsistent with his innocence and inconsistent with every other reasonable hypothesis except that of guilt.

If the testimony in this case, in its weight and effect, be such that two conclusions can be reasonably drawn from it, one favoring the defendant's innocence and the other tending to establish his guilt, then you should apply the presumption of defendant's innocence and find the defendant not guilty.

The law does not require the government to prove a defendant guilty beyond all possible doubt, as such proof in many cases would be impossible; but the government must prove the defendant guilty beyond a reasonable doubt as defined in these instructions. A reasonable doubt may be created by lack of evidence or it may be created by the evidence itself.

You are instructed that while a defendant at [82]

the beginning of the trial is presumed to be innocent, yet if and when during your deliberations the proof shows his guilt beyond a reasonable doubt, then the presumption of innocence disappears from the case.

The Statute under which the defendant is charged in Count One of the indictment provides in substance and pertinent part:

“Whoever knowingly persuades, induces, entices or coerces any woman or girl who has not attained her eighteenth birthday, to go from one place to another by common carrier in interstate commerce * * * with intent that she be induced or coerced to engage in prostitution or debauchery * * *” (shall be punished as the Statute provides).

The Statute under which the defendant is charged in Count Two of the indictment provides in substance and pertinent part:

“Whoever knowingly persuades, induces, entices or coerces any woman or girl to go from one place to another in interstate commerce * * * for the purpose of prostitution or debauchery, * * * or with intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution and debauchery * * * whether with or without her consent, and thereby knowingly [83] causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce * * *” shall be punished as the Statute provides.

The Act of Congress forbids any person to know-

ingly persuade and induce any woman or girl to go from one place to another in interstate commerce for the purpose of prostitution or debauchery, or with the intent and purpose on the part of such person that such woman or girl shall be induced to engage in the practice of prostitution or debauchery.

If you find from the evidence, beyond a reasonable doubt, that the defendant, Rudolph LaMarr, did knowingly persuade and induce Enola McMath, named in Count One, to go from Seattle, Washington, to Portland, Oregon, with the intent and purpose on the part of said Rudolph LaMarr that said Enola McMath, who at that time had not attained her eighteenth birthday, should be induced to engage in prostitution and debauchery, then it is your duty to convict the said defendant on Count One.

If you find from the evidence, beyond a reasonable doubt, that the defendant, Rudolph LaMarr, did knowingly persuade and induce Beverly June Allen, [84] named in Count Two, to go from Seattle, Washington, to Portland, Oregon, with the intent and purpose on the part of said Rudolph LaMarr that said Beverly June Allen should be induced to engage in prostitution and debauchery, and if you further find that the defendant thereby knowingly caused the said Beverly June Allen to go and be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon, then it is your duty to convict the defendant on Count Two.

Intent is an ingredient of crime. It is psycho-

logically impossible for you to enter into the mind of the defendant and determine the intent with which he operated. You must, therefore, determine the motive, purpose and intent from the testimony which has been presented, and you will consider the motive, purpose and intent from the testimony of the witnesses, bearing in mind that the law presumes that every man intends the legitimate consequences of his own acts. Wrongful acts, knowingly or intentionally committed, cannot be justified on the ground of innocent intent.

In order to convict the defendant as to Count One, it is necessary for the government to prove beyond a reasonable doubt that the defendant entertained in his [85] mind a criminal intent, that is to say, an intent to persuade, induce and entice the certain woman, namely, Enola McMath, to go from Seattle, Washington, to Portland, Oregon, by common carrier with the intent on the part of the defendant that she be induced to engage in prostitution and debauchery. The government is required to prove that such criminal intent on the part of the defendant was conceived by him, if conceived at all, while he was yet in the city of Seattle, Washington.

Such an intent first conceived at the end of an interstate journey is not sufficient, and in order to convict the defendant on Count One, you must first find that, before the journey began, the intent on the part of the defendant that Enola McMath be induced to engage in prostitution and debauchery, if it existed at all, must have been in the defendant's

mind and was formed by him before the interstate journey began.

Similar principles are involved in the allegations as to Count Two. As to that count, in order to convict the defendant, it is necessary for the government to prove beyond a reasonable doubt that the defendant entertained in his mind a criminal intent, that is to say, an intent to persuade, induce and entice Beverly June Allen to go from Seattle, Washington, [86] to Portland, Oregon, with the intent on the defendant's part that she should engage in the practice of prostitution and debauchery. The government is required to prove that such criminal intent on the defendant's part was conceived by him, if conceived at all, while he was yet in the city of Seattle, Washington.

Such an intent first conceived at the end of an interstate journey is not sufficient, and in order to convict the defendant as to Count Two, you must first find that, before the journey began, if one did begin, the intent on the part of the defendant was formed in his mind that Beverly June Allen should engage in the practice of prostitution and debauchery at the end of the journey, and further that with such intent, the defendant also knowingly caused said Beverly June Allen to go and to be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle to Portland, and that the intent in each instance mentioned in that Count Two was formed in defendant's mind before the interstate journey began.

You are instructed that before you can convict the defendant as to Count One, it must be proved by the evidence to your satisfaction beyond a reasonable doubt that the defendant persuaded, induced and enticed Enola McMath to go from Seattle, Washington, to Portland, [87] Oregon, on a common carrier as alleged for the purpose stated in that count.

And if plaintiff government fails to so prove such elements of the offense or fails to so prove that the defendant so persuaded, induced and enticed her to go from Seattle, Washington, to Portland, Oregon, for the purpose that she be induced to engage in prostitution and debauchery, then, you should find the defendant not guilty as to Count One and acquit him on that count.

You are instructed that before you can convict the defendant as to Count Two, it must be proved by the evidence to your satisfaction beyond a reasonable doubt that the defendant persuaded, induced and enticed Beverly June Allen to go from Seattle to Portland for purposes similar to those stated in relation to Count One in relation to another person and it must further be so proved that defendant thereby knowingly caused Beverly June Allen to go and to be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon, as alleged.

And if the plaintiff government fails to so prove such elements of the offense or fails to so prove

that the defendant so persuaded, induced and [88] enticed her to go from Seattle, Washington, to Portland, Oregon, with the intent that she should engage in the practice of prostitution and debauchery or fails to so prove that defendant by such persuasion, inducement and enticement so caused such transportation, then, you should find the defendant not guilty as to Count Two and acquit him on that count.

It is no violation of the law for this defendant, or any person, to transport any woman in interstate commerce for lawful purposes and if you find in this case as to Count One that the defendant's only purpose or intent was that Enola McMath would go from Seattle, Washington, to Portland, Oregon, for legitimate purposes you must in that event find the defendant not guilty as to Count One.

And if you find in this case as to Count Two that the defendant assisted Beverly June Allen in going or knowingly caused her to go or to be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle to Portland for legitimate purposes and not with the intent on the part of the defendant that Beverly June Allen should engage in prostitution and debauchery, then you must find the defendant not guilty as to Count Two.

You are instructed that under the law [89] involved in this case, sometimes called the Mann Act and the White Slave Traffic Act, the mere acquiescence or willingness or desire of the woman in question to be transported does not excuse the defendant

at all. The object of the Act is to prevent any person from transporting women or any woman in interstate commerce for prostitution and debauchery regardless of whether or not the woman of her own volition would like to go.

The term "interstate commerce" includes the transportation of a woman from one state to another for the purpose of prostitution and debauchery.

The term "prostitution" as used in the indictment means commercialized sexual vice; and the term "debauchery" as used in the indictment means that the woman in question is to be subjected repeatedly to unlawful sexual intercourse, fornication or adultery, or unlawful indulgence of lust.

Transportation of women in interstate commerce for the purpose of prostitution and debauchery may be effected by a train which transports such a woman from a place in one state to a place in another state.

In this case it is not necessary that the government prove that the violation charged against the defendant occurred on the specific date or dates mentioned in the indictment. It is sufficient if [90] the proof of the government shows beyond a reasonable doubt that the offense charged occurred within three years before the grand jury returned the indictment against the defendant. Such indictment in this case was returned and filed on July 13, 1950, so that it is only necessary for the evidence to show that sometime between May 15, 1950, and

July 13, 1950, the trip and transportation charged in the indictment occurred.

In order for you to convict the defendant of the charge contained in Count One of the indictment, it is not necessary for the government to prove nor for you to find that the defendant accomplished his purpose of having Enola McMath engage in prostitution or debauchery at the end of the interstate journey, if you should find beyond a reasonable doubt, from all of the evidence, that that was the intent of the defendant prior to the commencement of the interstate journey. It is sufficient if you find from the evidence, beyond a reasonable doubt, that defendant persuaded, induced or enticed Enola McMath to go from Seattle, Washington, to Portland, Oregon, by common carrier for any one or more of those purposes.

There are two kinds of evidence. Direct or positive, and circumstantial. Direct and positive testimony is that which a person observes or sees or [91] which is susceptible of demonstration by the senses, and circumstantial evidence is proof of such facts and circumstances concerning the conduct of the parties which conclude or lead to a certain inevitable conclusion. Circumstantial evidence is legal and competent as a means of proving guilt in a criminal case, but the circumstances must be consistent with each other, consistent with the guilt of the parties charged, inconsistent with their innocence and inconsistent with every other reasonable hypothesis except that of guilt, and when circumstantial evi-

dence is of that character, it is alone sufficient to convict. You will review all the circumstances in the light of this instruction.

You are the sole and exclusive judges of the evidence, and of the credibility of the several witnesses and of the weight to be attached to the testimony of each. In weighing the testimony of a witness, you have a right to consider his demeanor upon the witness stand, his apparent fairness or lack of fairness, the apparent candor or lack of candor of such witness, the reasonableness or unreasonableness of the story such witness relates, and the interest, if any, you may believe a witness feels in the result of the trial, and any other fact or circumstance [92] arising from the evidence which appeals to your judgment as in anywise affecting the credibility of such witness, and to give to the testimony of the several witnesses just such degree of weight as in your judgment it is entitled to.

You will be slow to believe that any witness has testified falsely in the case, but if you do believe that any witness has willfully testified falsely to any material matter, then you are at liberty to disregard the testimony of such witness entirely, except insofar as the same may be corroborated by other credible evidence in the case.

You are to draw no inference of guilt against the defendant because he has not testified in his own behalf. As heretofore stated in these instructions, he is presumed innocent of any crime and this presumption remains with him throughout the trial unless and until the government proves him guilty

to the jury's satisfaction beyond a reasonable doubt. He is free to testify or not as a witness in his own behalf, but no presumption or inference of guilt is to be indulged by you from his failure to testify.

You are instructed that the government does not desire to have you bring in a verdict finding the defendant guilty unless the verdict is supported by the [93] evidence beyond a reasonable doubt, but that neither does the government want a guilty defendant to escape.

It is the duty of the Court to instruct you as to the law governing the case, and you must take such instructions of the Court to be the law. You will consider such instructions as a whole and will not select any one of them and place undue emphasis on that one instruction.

You will consider all the evidence admitted by the Court and now before you, and you will disregard all evidence and exhibits offered but not admitted by the Court, and all evidence stricken by the Court.

In this connection you are instructed that you are not called upon to pass upon objections and exceptions made or taken by counsel and you should not allow the making of objections and the taking of exceptions by counsel to influence or confuse you.

In your deliberations and in reaching a verdict you should act only upon the evidence which has been admitted and the law as it has been given to you by the Court.

Statements, if any, by counsel or the Court, unsupported by your own recollection of the evidence,

you will disregard. Likewise, you will disregard all statements made by counsel and the Court to each other [94] during the trial.

While it would be proper for me as the trial judge to analyze the testimony and to give you my understanding of it, which, however, would not be binding upon you, my purpose is not to intimate to you any opinion I may have of any fact or the weight of any evidence, and if I refer or have referred to any facts in the case, it will not be and has not been for the purpose of indicating any opinion I may have of the facts, but simply to illustrate some proposition of law which is involved with the facts.

It is your duty as jurors to confer with each other freely and frankly about, and to discuss together honestly, the questions involved in this case for the purpose of agreeing, if you can honestly do so, upon a common verdict. In the end, however, the jury's verdict must be the verdict of each and all twelve of you. A verdict representing the opinions of any lesser number is not a lawful verdict. The law does not contemplate that any one of you will surrender his or her own individual opinion about the guilt or innocence of the defendant so long as such one of you personally has a reasonable doubt about the matter. Regardless of what the opinions of your fellow jurors may be, as long as you have a reasonable doubt about the guilt [95] of the defendant, if you have such reasonable doubt, it is your duty to vote for an acquittal.

It is not the function of the jury to determine the

kind or amount of punishment of a defendant found guilty by a jury. Under the law it is the duty of the Court unassisted by the jury to determine such punishment. It is for the jury only to decide the guilt or innocence of the defendant.

I might add this further thought to the jurors, by way of an explanation of the present status of the case and the attitude of counsel and the Court respecting means and measures of assisting the jury in the jury's work in this case. Counsel in the case on both sides have brought before the Court and jury all of the admissible evidence that they know of to properly enable the jury and the Court to perform their respective functions. The Court has fully instructed the jury on the law applicable to the case. It is not known to the attorneys or trial judge what more could be done to properly enable the jury to perform its duties. You now have all of the means necessary to a decision. In this Court, the instructions in written form are not sent to the jury room.

Also, written transcripts of the testimony orally stated from the witness stand will not be sent [96] to the jury room.

It is for the jury to remember the evidence and the Court's instructions.

The indictment in this case will be sent to the jury room with you merely to show the paper charge against the defendant, but is not to be considered as evidence. You will take with you to the jury room the exhibits in this case and this form of verdict which has been prepared by the clerks

for your convenience. The verdict is in the usual form. As to each count on which the defendant is being tried, before the word "guilty" is a blank space and you will write in that blank space, in each instance, the word "is" or the word "not" according as you find. It will require your entire number to agree upon your verdict, and when you have so agreed you will cause your verdict to be signed by your foreman, whom you will elect from among your number immediately upon retiring to the jury room, and return with your verdict into open court.

Counsel, have I overlooked anything?

Mr. Belcher: I think not, Your Honor.

Mr. Gemmill: No, Your Honor.

The Court: Are there any exceptions to be noted? If so, upon being so notified, the Court will excuse [97] the jury for that purpose as the rules provide.

Mr. Belcher: None so far as the government is concerned, Your Honor.

Mr. Gemmill: Defendant has no exceptions.

The Court: The bailiffs will come forward and be sworn.

(Bailiffs sworn.)

The Court: The jury will now retire to consider your verdict, being hereafter in the conduct of the bailiffs, and you will hereafter remain together at all times until discharged by the jury from further consideration of this case.

(Jury retires.)

(Alternate juror excused by Court.)

(At 12:40 o'clock p.m., Wednesday, October 18, 1950, trial proceedings concluded.) [98]

Certificate

I, Patricia Stewart, do hereby certify that I am official court reporter for the above-entitled court, and as such was in attendance upon the hearing of the foregoing matter.

I further certify that the above transcript is a true and correct record of the matters as therein set forth.

/s/ PATRICIA STEWART,
Official Court Reporter.

[Endorsed]: Filed November 28, 1950.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK, U. S. DISTRICT COURT TO RECORD ON APPEAL

United States of America,
Western District of Washington—ss.

I, Millard P. Thomas, Clerk of the United States District Court for the Western District of Washington do hereby certify that pursuant to the provisions of Subdivision 1 of Rule 11 of the United States Court of Appeals for the Ninth Circuit and Rule 39(b)(1) of the Federal Rules of Criminal Procedure, I am transmitting herewith all the original

papers in the file dealing with the above-entitled action, including the Court Reporter's Transcript of Proceedings at Trial and Plaintiff's Exhibits numbered 1 and 2 (being the only exhibits in said cause) together with copy of Journal entry of Nov. 9, 1950, and that said papers constitute the record on appeal from the Judgment and Sentence of the Court filed and entered October 30, 1950, to the United States Court of Appeals for the Ninth Circuit, to wit:

1. Indictment, filed July 13, 1950.
2. Praecipe, Govt., for subpoenas, filed 10-6-50. (Allen, et al).
3. Marshal's return on subpoenas, Daugherty and 1, filed October 10, 1950.
4. Marshal's Return on subpoenas, Allen and 2, filed 10/12/50.
5. Praecipe for subpoena, Govt., (Ruthman), filed 10/17/50.
6. Marshal's Return on subpoena, (Ruthman), filed 10/17/50.
7. Government's Requested Instructions, filed Oct. 17, 1950.
8. Verdict filed October 18, 1950.
9. Defendant's Motion for Acquittal and in the alternative for a New Trial, filed Oct. 20, 1950.
10. Letter, Clerk, Cook County Court, Chicago, re true name of defendant, filed Oct. 30, 1950.

11. Judgment, Sentence and Commitment, filed Oct. 30, 1950.

12. Notice of Appeal, filed Nov. 3, 1950.

13. Order Exonerating Bail, filed Nov. 3, 1950.

14. Copy of letter, Clerk to U. S. Attorney, transmitting copy of Notice of Appeal.

15. Copy of letter, Clerk of District Court to Clerk of Appellate Court transmitting duplicate notice of appeal and statement from docket entries.

16. Withdrawal of Will G. Beardslee as counsel for defendant, filed Nov. 4, 1950.

17. Notice of Appearance of J. Kalina as attorney for defendant, filed Nov. 4, 1950.

18. Bond of defendant on appeal (Gen. Cas. Co. of America, \$10,000.00), filed Nov. 4, 1950.

19. Motion of defendant for leave to depart jurisdiction for 90 days, filed Nov. 9, 1950.

19-A. Journal entry, denying motion for leave to depart jurisdiction.

20. Reporter's Transcript of Proceedings at Trial, filed 11/28/50.

21. Court Reporter's Transcript of proceedings on Imposition of Judgment and Sentence, filed Dec. 4, 1950.

I further certify that the costs, fees and charges incurred in my office on behalf of the appellant for preparation of the record on appeal in this cause are as follows:

Notice of Appeal.....\$5.00
and that said amount has been paid to me by the
attorney for the appellant.

In Witness Whereof I have hereunto set my hand
and affixed the official seal of said District Court at
Seattle, this 6th day of December, 1950.

MILLARD P. THOMAS,
Clerk.

[Seal] By /s/ TRUMAN EGER,
Chief Deputy.

[Title of District Court and Cause.]

ORDER REVOKING BOND ON APPEAL AND
REMANDING DEFENDANT TO MAR-
SHAL'S CUSTODY AND GRANTING DE-
FENDANT'S MOTION

This cause having this day come on regularly for
hearing in open court pursuant to due notice to
defendant upon the Court's previous oral order
requiring defendant to show cause if any there be
why his supersedeas bond on appeal should not be
revoked and why defendant should not be remanded
to the Marshal's custody without bond pending his
appeal to the U. S. Circuit Court of Appeals for
the Ninth Circuit and why he should not be ad-
judged in contempt of this Court because he had
left the jurisdiction of this Court and had gone to
San Francisco contrary to the Court's order and the
conditions of his bond;

And this cause having also come on for hearing upon defendant's own motion that he be remanded to the Marshal and be allowed credit on his sentence for the time spent in the Marshal's custody, and at McNeil Island and that his supersedeas appeal bond be surrendered and the surety thereon be discharged and exonerated, without prejudice to his appeal.

And the Court being of the opinion and finding and deciding that no reason has been shown why defendant's said appeal bond should not be revoked nor why defendant should not be remanded to the Marshal's custody pending defendant's appeal and that deft. has wrongfully departed the Court's jurisdiction and has gone to San Francisco for an unlawful purpose contrary to the Court's order and contrary to the conditions of said appeal bond;

Now, therefore, it is hereby

Ordered, Adjudged and Decreed that the defendant's supersedeas appeal bond and the previous order of the Court admitting defendant to bond or bail pending his appeal be and are hereby revoked and defendant is hereby remanded to the Marshal's custody without bond pending defendant's appeal; and it is further

Ordered, Adjudged and Decreed that defendant's motion that he be remanded to the Marshal's custody and be sent to McNeil Island pending his appeal and be allowed credit on his sentence for the time hereafter spent in the Marshal's custody and at McNeil Island and that his supersedeas appeal bond be surrendered and the surety thereon be discharged and exonerated, without prejudice to his appeal, be and

is hereby granted, and pursuant to his said motion defendant is hereby remanded to the Marshal's custody and defendant's said appeal bond is surrendered and the surety thereon is discharged and exonerated, without prejudice to his appeal, and upon defendant's request the Marshal may transfer defendant to McNeil Island Penitentiary forthwith.

It is further ordered that the show cause order previously orally made by the Court requiring defendant to show cause why he should not be adjudged in contempt of this Court be and is vacated and the rule thereunder is Discharged.

Done in open court this 22nd day of December, 1950.

JOHN C. BOWEN,
U. S. District Judge.

[Endorsed]: Filed December 21, 1950.

[Endorsed]: No. 12795. United States Court of Appeals for the Ninth Circuit. Ali Raschid, named in the indictment as Rudolph LaMarr, Appellant vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed December 27, 1950.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.

United States Court of Appeals
for the Ninth Circuit

No. 12795

UNITED STATES OF AMERICA,

Respondents,

vs.

ALI RASHID, named in the Indictment as
RUDOLPH LaMARR,

Appellant.

APPELLANT'S STATEMENT OF POINTS
ON APPEAL

Comes now the appellant and presents a statement of the points upon which he intends to rely upon the appeal of the above-entitled cause.

Introduction

Ali Rashid, named in the Indictment as Rudolph LaMarr, was duly indicted on two counts in the United States District Court, Western Division of Washington, Northern Division. The First Count charged in substance, "the Grand Jury charges that on and about May 15, 1950, defendant, Rudolph LaMarr, who stated at his arraignment that his true and correct name is Ali Rashid, did knowingly and unlawfully persuade, induce and entice Enola McMath, a female, who had not attained her 18th birthday, to go from Seattle in the Northern Division of the Western District of Washington by common carrier to Portland, in the state of Oregon, with the

intent on the part of the defendant, Rudolph LaMarr, that she, the said Enola McMath be induced to engage in prostitution and debauchery."

Count Two charged in substance, "That on and about May 15, 1950, the defendant, Rudolph LaMarr, who stated at the time of his arraignment that his true and correct name is Ali Rashid, did knowingly and unlawfully persuade, induce and entice Beverly June Allen, a female person, to go from Seattle in the Northern Division of the Western District of Washington, to Portland in the State of Oregon, with the intent on the part of said defendant, Rudolph LaMarr, that the said Beverly June Allen should engage in the practice of prostitution and debauchery, and the said defendant, Rudolph LaMarr did thereby knowingly cause said Beverly June Allen to go and to be transported as a passenger upon the line and route of a common carrier in interstate commerce from Seattle, Washington, to Portland, Oregon."

The cause was duly tried in Seattle on October 17, 1950, and on October 18, 1950, the jury returned a verdict, "Guilty on both Counts."

On October 31, 1950, appellant duly filed and presented his motion for acquittal and in the alternative for a new trial. The motions were denied.

Appellant was duly sentenced to confinement in the United States Penitentiary at McNeil Island for a period of five years, and to a fine in the sum of \$1,000.00 on Count One, and to the same custody for the same length of time on Count Two, the execution of sentence as to Count Two to run con-

currently with execution of sentence in respect to Count One. Error was committed by the District Court of the United States of America for the Western District of Washington, Northern Division, in the respects hereinafter set forth.

I.

The District Court erred in denying the motion of appellant for a directed verdict of not guilty at the close of the government's case.

II.

The District Court erred in not sustaining the challenge of appellant to the legal sufficiency of the government's evidence to sustain the charge on both counts of the indictment.

III.

The District Court erred in denying appellant's motion for dismissal at the close of the government's case.

IV.

The District Court erred in denying appellant's motion for a new trial on the ground that defendant was substantially prejudiced and deprived of a fair trial by reason of the fact that the attorney for the government in his argument to the jury called the jury's attention to the fact that defendant had not taken the stand in his own behalf.

V.

The District Court erred in denying appellant's motion for a new trial on the ground that the verdict was contrary to the weight of the evidence.

VI.

The District Court erred in denying appellant's motion for a new trial on the ground that the verdict was not supported by substantial evidence.

VII.

The District Court erred in permitting the witness, Beverly June Allen, to testify to conversations had with appellant on the Friday prior to the trial over appellant's objection.

VIII.

The District Court erred in permitting the District Attorney to commit prejudicial error by repeatedly calling the jury's attention to the race of appellant without cautioning the District Attorney as to such prejudicial statements.

MILLER & SINCLAIR and
JACOB KALINA,

By /s/ LOREN MILLER,
Attorneys for Appellant.

Receipt of Copy acknowledged.

[Endorsed]: Filed December 27, 1950.

[Title of Court of Appeals and Cause.]

DESIGNATION OF CONTENTS OF RECORD
ON APPEAL

To Paul P. O'Brien, Clerk of the United States
Court of Appeals for the Ninth Circuit:

Will You Please Take Notice, that Ali Rashid, named in the indictment as Rudolph LaMarr, appellant in the above-entitled action, has appealed to the United States Court of Appeals for the Ninth Circuit from that certain judgment, and the whole thereof, and from that decision denying his motion for acquittal, and in the alternative for a new trial, of the United States District Court for the Western District of Washington, Northern Division, and the appellant, Ali Rashid, named in the indictment as Rudolph LaMarr, hereby requests and designates that there shall be made up and printed on this appeal the entire record of all proceedings and all matters related to the above-entitled cause, including the indictment, the proceedings had upon selection of a trial jury, the Reporter's transcript, the instructions of the Court, the arguments of counsel, the motion for acquittal and in the alternative for a new trial, excluding, however, the proceedings had upon the sentencing of appellant.

MILLER & SINCLAIR and
JACOB KALINA,

By /s/ LOREN MILLER,
Attorneys for Appellant.

Receipt of Copy acknowledged.

[Endorsed]: Filed December 27, 1950.